RECEIVED
FEB 4 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Case No. 81 6172

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM D. CHRISTOPHER,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

JERRY HILL
PUBLIC DEFENDER
TENTH JUDICIAL CIRCUIT

WILLIAM C. McLAIN
ASSISTANT PUBLIC DEFENDER
Chief, Capital Appeals

DAVID A. DAVIS
ASSISTANT PUBLIC DEFENDER

Hall of Justice Annex
495 N. Carpenter Street
Bartow, Florida 33830-3798
(813)533-6715 or 533-1184

ATTORNEYS FOR PETITIONER

Case No.

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM D. CHRISTOPHER,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

QUESTION PRESENTED

Whether during police custodial interrogation, a defendant has indicated "in any manner" his desire to remain silent (thus invoking his Fifth Amendment right against self-incrimination) when he said: (1) "then I got nothing else to say. If you're accusing me of murder, then take me down there;" (2) "I got nothing else to say;" (3) "what's the need of me saying anything then."

TABLE OF CONTENTS

	PAGE NO.
OPINIONS BELOW	4
JURISDICTION OF THE SUPREME COURT	4
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	4
STATEMENT OF THE CASE	5
STATEMENT OF THE FACTS	6
REASON FOR GRANTING THE WRIT	9
CONCLUSION	15
APPENDIX	
1. Opinion of the Supreme Court of Florida	A1
2. Motion for Rehearing	A10
3. Order denying motion for rehearing	A13
CERTIFICATE OF SERVICE	

TABLE OF AUTHORITIES

	PAGE NO.
Bram v. United States 168 U.S. 532 (1897)	11
Brewer v. Williams 430 U.S. 387, 51 L.Ed.2d 424, 97 S.Ct. 1232 (1977)	13
Edwards v. Arizona __ U.S. __, 68 L.Ed.2d 378, 101 S.Ct. __ (1981)	12,14
Fare v. Michael C. 442 U.S. 707, 61 L.Ed.2d 197, 99 S.Ct. 2560 (1979)	12
Michigan v. Mosely 423 U.S. 96, 46 L.Ed.2d 313, 96 S.Ct. 321 (1975)	12
Miranda v. Arizona 384 U.S. 436, 16 L.Ed.2d 694, 86 S.Ct. 1602 (1966)	10,12
Rhode Island v. Innis 446 U.S. 291, 64 L.Ed.2d 297, 100 S.Ct. 1682 (1980)	13
United States v. Lopez-Diaz 630 F.2d 661 (9th Cir. 1980)	12
United States v. Prestigiacomo 504 F.S. 681 (E.D.N.Y. 1981)	12
Title 28, United States Code, §1257(3)	4
Rule 17, United States Supreme Court Rules	4
Fifth Amend., U.S. Const.	4
Fourteenth Amend., U.S. Const.	4

OPINIONS BELOW

The opinion and judgment of the Supreme Court of Florida sought to be reviewed via this petition is not yet officially reported, but it is reproduced in the appendix as item 1. (A1-9)

JURISDICTION OF THE SUPREME COURT

The Supreme Court of Florida issued the opinion and judgment in this case on July 9, 1981. (A1-9) Petitioner filed a motion for rehearing (A10-12) which, except for some phraseology changes in its original opinion, the court denied. (A13) Petitioner asserted below and asserts here a deprivation of his rights as guaranteed under the United States Constitution. Title 28 United States Code, Section 1257(3) and Rule 17 of the United States Supreme Court Rules confers certiorari jurisdiction in this case to review the judgment in this case.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Fifth Amendment to the United States Constitution:

> No person shall be held to answer for a capital, or otherwise infamous crime; unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life, or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

2. The Fourteenth Amendment to the United States Constitution:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of

the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

On October 26, 1977 a Collier County, Florida grand jury indicted William D. Christopher, Petitioner, with two counts of first degree murder. (R1) Subsequently, the trial court denied a defense motion to suppress statements Christopher made when interrogated by the police. (R37-38,1297)

Christopher's first trial ended with a hung jury. (R2) He was re-tried on August 14-18, 1978, before the Honorable Charles T. Carlton, Circuit Judge of the Twentieth Judicial Circuit in and for Collier County, sitting in Glades County on a venue change. (R142) The jury returned its verdicts finding the defendant guilty of both counts of first degree murder. (R78-79)

At the penalty phase of the trial, the jury recommended the imposition of the death sentence. (R81,81) Following a pre-sentence investigation, the trial court adjudicated the defendant guilty of both counts and imposed a sentence of death on the defendant. (R83-84,87;SR16-19)

The defendant's motion for a new trial was denied. (R85,89)

In a revised opinion filed on December 10, 1981, the Florida Supreme Court affirmed the trial court's judgment and sentence. Specifically, for purposes of this petition, the Florida Supreme Court said that there was no evidence that Christopher tried to stop the police interrogation but continued to talk with them of his own will. Petitioner filed a motion for a rehearing (A10-12), which the court, for purposes of this petition, denied. (A13)

Petitioner now asks this Court to hear his case.

STATEMENT OF THE FACTS

William D. Christopher, was visiting his natural (but illegitimate) daughter, Norma Sands, in Naples, Florida (R688-691) where she had been living with Bertha Skillin, her adopted mother, and Skillin's boyfriend, George Ahern. (R681-684)(Norma had been given up for adoption at birth to Bertha Skillin and her first husband by Patricia Stacks, Norma's natural mother). (R623,636)

Ahern, on numerous occasions, would touch and fondle Norma (age 15), and would enter her room at night and lift up her covers to see if she was wearing any clothing. (R685,720) Understandably, Norma's friends were afraid of Ahern and refused to visit her because he would touch them, also. (R721-722) However, when Norma told Skillin about Ahern's conduct, she failed to do anything about the problem. (R686) Norma also discussed this matter with Patricia Stacks (her natural mother) and Christopher, who became upset with Ahern. (R687,692)

Because of this problem, and because Norma and Christopher loved each other very much, Norma decided to secretly leave Naples with Christopher and return to Memphis, Tennessee, where both Christopher and Patricia Stacks lived. (R693-695) On August 30, 1977, they packed their suitcases and hid them under Norma's bed. (R695)

The next morning, Christopher drove Norma to school and returned home. Later, he was seen with Ahern at a local bank, where Ahern withdrew three hundred dollars to loan Christopher for his trip back to Memphis. (R567,592-596)

About noon, Christopher checked Norma out of school and they headed north. (R698) She noticed blood on Christopher's shoes and asked about it. (R703) Christopher explained that he had confronted Ahern with his knowledge of Ahern's sexual advances toward Norma, that an argument ensued, and that he punched Ahern in the nose, causing it to bleed. (R703)

Later, however, Christopher admitted to Norma that that had not happened. (R705) He told her that Skillin and Ahern were dead. (R705) He told her that after going to the bank with Ahern, he went for some beer while Ahern returned home. (R707) When Christopher returned he noticed some blood on the floor and heard water running in the bathroom. (R707) Ahern told him that Skillin had cut herself and was washing the cut. (R707-708) Christopher went to the kitchen while Ahern went to the bedroom. (R708) Christopher heard a shot from the bedroom (R708), and upon entering he saw Ahern's body sliding from the bed to the floor, a gun in his hand and blood coming from his head. (R708) Christopher, wondering why Skillin had not come, went to the bathroom where he saw her body on the floor. (R708) He discovered she was dead also. (R708) As he stood near Skillin's body, he stepped in some blood. (R708)

Christopher told Norma he panicked and, thinking he might be blamed for the shootings, took the gun and left the house. (R708) He then drove to school and picked up Norma. (R708-709)

While Christopher and Norma were proceeding north, several people in Naples became suspicious. They had not seen Ahern and Skillin for quite sometime; mail was piling up and Skillin was late with her rent. (R363-365,370-372) The police were notified and, upon entering Skillin's residence, they discovered the badly decomposed bodies of Ahern and Skillin. (R381-385,415,419)

During the police investigation of Skillin's residence, Investigator Harold Young answered Skillin's telephone on September 13, 1977. (R627,833) The caller was Patricia Stacks, and she was trying to locate Skillin. (R627,833) From this conversation, Young learned that Norma had lived with Skillin, and that Christopher had been visiting his daughter. (R833-834)

As a result of this conversation, the police began a search for Christopher and Norma Sands. (R834)

Christopher was arrested in Memphis, Tennessee, by that city's T.A.C. Unit (similar to a S.W.A.T. team) on a warrant from Collier County, Florida. (R790,836) Also taken into custody were Pete and Pam Scott (the defendant's half-brother and half-sister) and Norma Sands. (R794-795) Pete and Pam were charged with aiding and abetting after the fact by the Memphis police. (R838)

Investigator Young and five other police officers questioned Christopher at 7:30 p.m. on September 22, 1977. (R840-842) They informed him of his Miranda rights and obtained his taped statement. (R845) Over the next hour he told the officers the same version of the deaths that he had told Norma (i.e. the deaths were a murder-suicide). (R876;TR20-55) The officers, however, repeatedly told Christopher that they did not believe him. (TR56-58,61,63) Christopher maintained his innocence, but kept asking what the police were going to do with Norma, Pete and Pam (R874-875;TR58) because Christopher thought that Norma was being charged with the murder. (R881) Young and Lt. Mills said they did not know what would happen even though the police repeatedly told the defendant that Norma was caught up in this mess and advised the defendant to talk. (R1200-1202;TR58-59,61-65)

Christopher repeatedly asserted that what he had said was the truth. When the police kept badgering him, Christopher finally indicated that he did not have anything more to say. (R1204;TR61,63,64) However, the police continued talking with him. (TR61-68) The tape recorder was finally turned off. (R849;TR69)

After the tape was turned off, the defendant continued his efforts to find out what would happen to his daughter and half-brother and sister. (R1245-1246) Captain Smith, who was

present during the interrogation, admitted at the suppression hearing that there may have been some talk with Christopher that Lt. Mills considered prosecuting Norma. (R1247)

Christopher finally broke down and began a long narrative beginning with Norma's birth. (R850,852) During this statement, he admitted killing Skillin and Ahern. (R851)

After a telephone call to his mother, Christopher gave a second taped statement at 10:25 p.m. (R855-856,876-877) In this statement, he said that, upon returning from dropping Norma off at school, Skillin confronted him with the knowledge that Norma and Christopher intended to leave together. (TR8) She indicated that she would not permit it, and intended to notify the police. (TR8,9) According to this second statement, Christopher shot Skillin when she tried to prevent him from taking Norma, and dragged her body into the bathroom and closed the door. (TR8,10)

When Ahern returned home, Christopher accused Ahern of making sexual advances at Norma and an argument ensued. (TR8,15) Ahern went into the bedroom with Christopher following. (TR8,15) There, according to the second statement, Christopher shot Ahern once. (TR8,15)

After giving this statement, Christopher indicated that he had given it in order to clear Norma, Pete, and Pam. (R1193;TR17) These two statements were admitted into evidence at trial over his objections. (R857-858)

REASON FOR GRANTING THE WRIT

DURING POLICE CUSTODIAL INTERROGATION, A DEFENDANT HAS INDICATED "IN ANY MANNER" HIS DESIRE TO REMAIN SILENT (THUS INVOKING HIS FIFTH AMENDMENT RIGHT AGAINST SELF-INCRIMINATION) WHEN HE SAID:
1. "THEN I GOT NOTHING ELSE TO SAY IF YOU'RE ACCUSING ME OF MURDER, THEN TAKE ME DOWN THERE;"
2. "I GOT NOTHING ELSE TO SAY;"
3. "WHAT'S THE NEED OF ME SAYING ANYTHING THEN?"

The issue presented by this case involves a little litigated aspect of an often quoted passage from Miranda v. Arizona, 384 U.S. 436,473-474, 16 L.Ed.2d 694, 86 S.Ct. 1602 (1966):

> Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease. At this point he has shown that he intends to exercise his Fifth Amendment privilege; any statement taken after the person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise. Without the right to cut off questioning, the setting of in-custody interrogation operates on the individual to overcome free choice in producing a statement after the privilege has been once invoked. (Footnote and cite omitted)

After the police arrested Christopher, he initially waived his Miranda rights and the police began questioning him. At first he denied committing the murder. During this part of the questioning the following exchange occurred:

> CHRISTOPHER: Well, save--
>
> YOUNG: Now wait a minute. Yea, I accused you, for we signed a warrant against you.
>
> CHRISTOPHER: Okay.
>
> YOUNG: Ah--
>
> CHRISTOPHER: Then I got nothing else to say. If you're accusing me of murder, then take me down there.
>
> MILLS: You were accused when you come in here. You knew you were accused--
>
> CHRISTOPHER: That's right. That's right.
>
> MILLS: --you knew what you were accused of, and I told you what the girl was accused of, so don't make out like you don't know what you're accused of.
>
> CHRISTOPHER: Oh, ah,--I know what I'm accused of. I know that I'm accused of both murders.
>
> MILLS: I told you awhile ago you were being charged with both murders.
>
> CHRISTOPHER: Okay then. I got nothing else to say.

YOUNG: You mean it's all right as long as we accuse you of one?

MILLS: But all of a sudden when you're accused of two, you don't--

CHRISTOPHER: I'm not saying that, I know that, didn't I tell you awhile ago that I knew that ya, I was accused of both murders?

YOUNG: Yeah. You--you should know.

CHRISTOPHER: Okay then. What's the need of me saying anything then?

MILLS: What are you upset about?

CHRISTOPHER: You ask me? I'm upset about the fact that you're bringing my daughter up here, like I'm using her in this thing.

YOUNG: I'm asking you--

MILLS: I'm asking you to explain her actions in this thing.

(TR64-65)(Emphasis supplied)

On appeal to the Florida Supreme Court, Christopher argued that the underlined portions of the quote indicated he wanted "in any manner" to invoke his Fifth Amendment right to remain silent.[1/] The Florida Supreme Court rejected this argument:

> Turning to the second issue, the admissibility of the confession, we find no evidence that the appellant exercised his right to halt the interrogation. The appellant continued his conversation with the interrogating deputies of his own free will. (Slip opinion at page 3)

The question before this court thus focuses upon the language from the quoted passage in Miranda and invites this Court to consider what it meant in Miranda when it said that interrogation must cease if a suspect invokes his right to remain silent "in any manner." This question has not been addressed by this Court before nor, as far as our research indicates, has

---

1/ Christopher also argued that by implicating his daughter and his brother and sister in the murders, the police unfairly coerced his confession. Bram v. United States, 168 U.S. 532 (1897) That argument was also rejected by the Florida Supreme Court.

any other appellate court discussed the issue. But see United States v. Lopez-Diaz, 630 F.2d 661 (9th Cir. 1980); United States v. Prestigiacomo, 504 F.S. 681 (E.D.N.Y. 1981).

This Court in Fare v. Michael C., 442 U.S. 707, 61 L.Ed.2d 197, 99 S.Ct. 2560 (1979) said that when the juvenile being interrogated in that case asked for his probation officer after being read his Miranda rights, he had not invoked his right to assistance of counsel. The Court, however, also rejected the argument that by asking for his probation officer, Michael C. had invoked "in any manner" his right to remain silent.

> Nor do we believe that a request by a juvenile to speak with his probation officer constitutes a per se request to remain silent. As indicated, since a probation officer does not fulfill the important role in protecting the rights of the accused juvenile that an attorney plays, we decline to find that the request for the probation officer is tantamount to the request for an attorney. And there is nothing inherent in the request for a probation officer that requires us to find that a juvenile's request to see one necessarily constitutes an expression of the juvenile's right to remain silent.

Id., at 723-724.

It is clear from the opinion, however, that interpreting a request for the assistance of a probation officer as a request to remain silent, was a "fall back" position. The primary focus in Fare was whether asking for a probation officer was a request for an attorney, a separate aspect of the protections provided by Miranda. Edwards v. Arizona, __U.S.__ 68 L.Ed.2d 378, 101 S.Ct. ___ (1981)

Other cases in this area do not clearly address the issue presented by this case. Michigan v. Mosely, 423 U.S. 96, 46 L.Ed.2d 313, 96 S.Ct. 321 (1975) focused on whether the police had scrupuously honored Mosely's right to stop interrogation when he had initially said he did not want to talk about a robbery. The next day a different policeman questioned him

about a different crime than the one Mosley had earlier invoked his right to remain silent. In that case, there was no question that Mosley had invoked his right to remain silent.

In Brewer v. Williams, 430 U.S. 387, 51 L.Ed.2d 424, 97 S.Ct. 1232 (1977) the court held that a Sixth Amendment waiver of counsel could not be inferred from the mere response by the accused to overt subtle forms on interrogation or other efforts to elicit incriminating information.

In Rhode Island v. Innis, 446 U.S. 291, 64 L.Ed.2d 297, 100 S.Ct. 1682 (1980) the question was whether Innis was being interrogated when two policemen discussed the location of a shotgun while they and Innis sat in a police car. Again there was no question of whether or not Innis had invoked "in any manner" his right to remain silent.

The issue presented here is different from the cases cited and is an important one in determining what constitutes the fair administration of justice. When the police question a suspect, they have conflicting interests to protect. They are primarily police officers who are commissioned to investigate crime and enforce the law. When they interrogate a suspect, however, they must also protect the rights of the person they are interrogating. That is, they are often in the position of determining whether a suspect has "in any manner" invoked his right to remain silent. At times when the police strongly suspect the person they are interrogating or the crime is especially heinous, the conflict may be ignored in favor of pressing the interrogation. Thus in order to preserve a just system of criminal justice, police, courts, and attorneys need to know what "in any manner" means so that they can fairly resolve the conflict that is inherently present in every interrogation.

This case is the appropriate case to resolve that significant federal question. The Florida Supreme Court said

there was no evidence that Christopher had invoked his right to remain silent because they said he continued the conversation with the deputies of his own will. Yet the underlined portions of the quote from the interrogation is evidence that Christopher's desire to stop the interrogation was ignored by the police. This court should accept certiorari in this case to decide if Christopher ever invoked his right to remain silent.

Alternatively, the Florida Supreme Court's opinion can be read as tacitly agreeing that Christopher had invoked his right to remain silent but had relinquished that right by "continu[ing] his conversations with the interrogating deputies of his own free will." If such is the case, the issue becomes whether there was a knowing and intelligent waiver of a constitutional right and whether the court's holding in Edwards v. Arizona, cited earlier, applies to situations where a suspect invokes, not his right to have counsel present, but his right to remain silent.

> ...the Court has strongly indicated that additional safeguards are necessary when the accused asks for counsel; and we now hold that when an accused has invoked his right to have counsel present during custodial interrogation, a valid waiver of that right cannot be established by showing only that he responded to further police-initiated custodial interrogation even if he has been advised of his rights. We further hold that an accused, such as Edwards, having expressed his desire to deal with the police only through counsel, is not subject to further interrogation by the authorities until counsel has been made available to him, unless the accused himself initiates further communication, exchanges or conversations with the police.

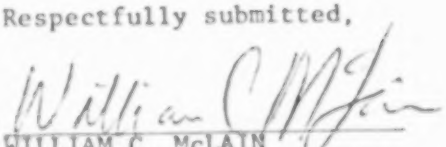
Edwards v. Arizona, __U.S.__, 68 L.Ed.2d 386.

This case, therefore, presents a significant question of federal law for this court to resolve.

CONCLUSION

Petitioner asks this Honorable Court to grant a writ of certiorari in his case.

Respectfully submitted,

BY: 

WILLIAM C. McLAIN
Assistant Public Defender
Chief, Capital Appeals
495 N. Carpenter Street
Bartow, Florida 33830-3798
(813)533-6715 or 533-1184

Member Of The Bar Of The United State Supreme Court

APPENDIX

ITEM:		PAGE NO.
1.	Opinion of the Supreme Court of Florida	A1
2.	Motion for rehearing	A10
3.	Order denying motion for rehearing	A13

Supreme Court of Florida

No. 55,698

WILLIAM D. CHRISTOPHER, Appellant,

vs.

STATE OF FLORIDA, Appellee.

[December 10, 1981]

ADKINS, J.

We have before us a direct appeal from a judgment imposing the death sentence upon William D. Christopher. Jurisdiction is pursuant to article V, section 3(b)(1), Florida Constitution.

The appellant was found guilty of two counts of first-degree murder. The findings of fact by the trial court are as follows:

> The defendant was charged and found guilty of the First Degree Murder of George Ahern and of the First Degree Murder of Bertha Skillin. The jury recommended to the Court in its advisory opinion that the Court impose a sentence of death. The Court is hereby accepting the advisory opinion of the jury and is hereby imposing a sentence of death upon William D. Christopher.
>
> The Court finds that there are sufficient aggravating circumstances to impose the death penalty and there is [sic] insufficient mitigating circumstances to support a sentence of life imprisionment [sic]. The court finds that the aggravating circumstances were:
>
> 1. The defendant was previously convicted of other felonies involving the use of violence to some person. In fact, as much as can be determined from the presentence investigation, it appears that the defendant has been convicted of a great many felonies that did not invoke [sic] the use of force. However, pursuant to the applicable statute, the Court has only considered the felonies involving the use of violence to a person.
>
> On June 19, 1972 in Memphis, Tennessee the defendant, William D. Christopher, was convicted of

(1) assault with intent to commit murder in the first degree and, (2) attempt to commit felony (Rape) along with a non-violent felony. . . .

2. The two capitol [sic] felonies that were commited [sic] by the defendant, William D. Christopher, are especially heinious [sic], atroscous [sic] and cruel. The defendant had a duaghter [sic], Norma Sands, who was born out of wedlock to defendant and Patricia Sands Stock. At the time of the birth of the illegitimate child, the defendant was in prison, so the mother gave the infant up for adoption to one of the murder victims, Bertha Skillin and her husband. Bertha Skillin and Norma moved to Florida and the child was reared in this state. The defendant first met his 14 years [sic] old daughter in December 1975 in Memphis, Tennessee while Norma was in that city for a visit. On approximately the first of August, 1976, the defendant arrived in Naples, Florida and made contact with his daughter, Norma. The defendant was without funds. One of the murder victims, Be.tha Skillin and the other murder victim, her boyfriend, George Ahern, invited the defendant to stay in their apartment. Soon the defendant and his daughter, Norma, were engaged in a sexual affair. Mrs. Skillin discovered that Norma was planning to leave Naples and return to Memphis, Tennessee with the defendant. Mrs. Skillin confronted the defendant on the day of the murders and attempted to call the police. The defendant then killed her with a pistol, and then dragged her body into the bathroom and closed the door. During this time, George Ahern was fishing. He returned to the apartment and the defendant persuaded George Ahern to withdraw $300.00 from his bank account so the defendant could return to Memphis. They went to the bank, withdrew the money and returned to the apartment. When they returned to the apartment the defendant knocked Mr. Ahern down. Mr. Ahern ran for the bedroom and attempted to shut the door. The defendant pushed open the door and shot the victim while [he] was sitting on the bed. The defendant and his daughter then fled to Tennessee where he was apprehended. After apprehension, he confessed to both murders. . . .

Appellant presents six procedural issues upon which he relies for reversal of the sentence of death, remand for a new trial, remand for imposition of a life sentence, or remand for a new sentencing hearing.

The six issues presented for our consideration are as follows:

1. Did the trial court systematically exclude for cause prospective jurors who did not state they were irrevocably committed to vote against the death penalty, but voiced only general, indefinite reservations to capital punishment, in violation of the Sixth and Fourteenth Amendments to the United States Constitution, and article I, sections 9 and 16 of the Florida Constitution?

2. Did the trial court err in admitting appellant's confession because (a) he did not freely and voluntarily confess, and (b) the police failed to honor his request to cut-off questioning, in

violation of the Fifth and Fourteenth Amendments to the United States Constitution, and article I, section 9, of the Florida Constitution.

3. Did the trial court commit reversible error in allowing over defense objections and a motion in limine, testimony regarding the sexual relationship between the appellant and his daughter?

4. Did the trial court err in denying appellant's motion for a medical evaluation and for administration of sodium pentothol at county expense?

5. Did the trial court's granting of the state's motion to preclude the appellant from introducing evidence of his polygraph test render the death sentence unconstitutional?

6. Were the aggravating factors found by the court improper; should mitigating factors have been found; and did the mitigating factors outweigh the aggravating factors?

As to the first issue, the law is settled that the competency of a challenged juror is a mixed question of law and fact and is to be determined by the trial judge in his discretion. Manifest error must be demonstrated before the judge's decision will be disturbed. Singer v. State, 109 So.2d 7, 22 (Fla. 1959). Ashley v. State, 370 So.2d 1191, 1194 (Fla. 3d DCA 1979). No such error has been demonstrated in the case sub judice.

Turning to the second issue, the admissibility of the confession, we find no evidence that the appellant exercised his right to halt the interrogation. The appellant continued his conversation with the interrogating deputies of his own free will.

The test for admissibility of a confession is whether it is freely and voluntarily made. Howell v. State, 66 Fla. 210; 63 So. 421 (1913); Jarriel v. State, 317 So.2d 141 (Fla. 4th DCA 1975), cert. denied, 328 So.2d 845 (Fla. 1976).

Appellant claims improper coercion during the course of the interrogation. A case in which improper coercion was found is Jarriel v. State, cited above. In Jarriel the defendant was improperly urged by direct or implied promises to make a statement. The interrogating officer told defendant his wife would be arrested unless defendant made a statement. 317 So.2d

at 141. No such urging or promising took place in the case sub judice. The confession was freely and voluntarily made, and was, therefore, properly admitted.

Next we proceed to the third issue, concerning the admissibility of the testimony regarding the appellant's sexual relations with his daughter. Appellant's claim is that the prejudicial impact of this evidence far outweighs its probative value, and, therefore, the evidence should not have been admitted. We disagree. The trial judge found that incest was one of the theories upon which the state tried the case, and that incest was a motive for the murders. The state contended that the primary reason for the murders was appellant's jealousy and anger over Ahern's sexual advances toward Norma. Appellant knew that Ahern had fondled Norma's breasts and that he had entered Norma's room at night and lifted her covers to see if she was naked. The state also contended that the abnormal relationship between appellant and his daughter was why he planned on taking Norma away from Naples, and that the plan resulted in two murders because Skillen tried to prevent Norma's departure by calling the police. It is well-established that "any material evidence tending to show motive is admissible on the trial of one charged with the offense of murder in the first degree. . . ." Beard v. State, 131 Fla. 512, 180 So. 1, 2 (1938). See also McVeigh v. State, 73 So.2d 694, 696 (Fla. 1954) appeal dismissed, 348 U.S. 885 (1954); and Dodson v. State, 334 So.2d 305 (Fla. 1st DCA 1976), cert. denied, 341 So.2d 1081 (Fla. 1977).

In Smithie v. State, 88 Fla. 70, 101 So. 276 (1924), a first-degree murder case, this Court held that certain evidence which tended to show an illegitimate intimacy between the defendant and the sister-in-law of the deceased, was admissible. The Court found that "some of the evidence obtained . . . was relevant and perfectly proper, as showing motive or cause for antagonism between the two men. . . ." 101 So. at 279. The Court further determined that "[t]he fact that the evidence also tended to show the defendant to be guilty of another crime, that

of criminal intimacy with a girl not 18 years of age, would not render it inadmissible as evidence of so important an element as motive for the killing of the deceased." Id.

The testimony concerning appellant's sexual relations with his daughter was admissible.

We turn now to the fourth issue on appeal, whether the trial court, during the sentence proceeding, erred in denying the appellant's motion for a medical evaluation and for administration of sodium pentothol at county expense. We consider this issue in light of this Court's pronouncement in the case of Knight v. State, 97 So.2d 115, 118 (Fla. 1957).

> There is no scientifically recognized drug that inevitably causes its subject to speak the truth. The so-called "truth serums", including . . . sodium pentothol, are said to effect states of altered consciousness, so that the subject's ability to associate thoughts and give them inhibited expression is impaired; but no such drug insures pure truth. It is said to produce merely an uninhibited state of mind in which the subject is prone to relate facts not deliberately altered. In 5 University of Florida Law Review 6 (1952) it is said:
>
> > Along with those facts, however, fantasy unfolds; and here lies one of the greatest objections to the accuracy of the truth serum. Since the truth is mixed with impressionistic creations peculiar to the subject, the reliability of any truth serum testimony will depend mostly upon the examiner's interpretive skill and experience. Without such experts, therefore, there is not even a scientific acceptance of the serum's reliability. Moreover, in order for truth serums to bridge the experimental-demonstrable gap, there must be a showing that while the subject is under the influence of such drugs there can be no intentional fabrication. The courts so far have indicated a distrust for the assertion that the subject has no control over his utterances, by regarding statements made under influence of the drug as merely self-serving declarations.

The trial court, in the case sub judice, made the following findings:

> THE COURT: All right. The Court is of the opinion that sodium pentothol comes under the same rules as polygraph examination. It's not admissible. The only time it is admissible in the trial is when both sides would agree to it being considered by a jury.
>
> Due to the fact that it's not admissible, it's not material to the trial, and the Court is not going to require the county to pay for such an examination

> knowing in advance that it's not going to be admitted at the trial. Therefore, the Court is going to deny your motion.
>
> Now this is not to say if you do want to make a proffer you may not do so, but any funds expended on such a test will have to come from the defendant or from the public defender's office.
>
> Now, the Court is going to deny this motion. Now, in the event that we go into a penalty phase trial, the Court will hear further from you as to how it could be presented for the Court to make a decision in the case.

The judge acted properly. Appellant's fourth point is without merit.

We now consider the fifth issue, whether the trial court erred during the sentencing in granting the state's motion to preclude the introduction of polygraph results. Section 921.141, Florida Statutes (1977), is not ambiguous with respect to what evidence is admissible at the sentencing hearing. The statute provides that evidence as to any matter the court deems relevant to sentencing may be admitted. It is within the discretion of the trial court to determine what is relevant in the sentencing proceeding. Provence v. State, 337 So.2d 783, 786 (Fla. 1976), cert. denied, 431 U.S. 969 (1977). Absent a showing of abuse of this discretion we will not disturb the finding of the trial judge. No such abuse has been shown in the case sub judice. The granting of the state's motion to preclude the introduction of the polygraph results was proper.

We now reach the final issue on appeal, the sufficiency of the trial court's findings with respect to aggravating and mitigating factors. The first aggravating factor found by the trial court is that the defendant was previously convicted of other felonies involving the use of violence to some person. Documents introduced by the state demonstrated that he was convicted for assault with intent to commit murder in the first degree, and for an attempt to commit rape. In addition, the appellant admitted the crime of assault with intent to commit first degree murder in one of his taped confessions. Furthermore, the pre-sentence investigation report ordered by the trial judge reflected a conviction for assault with intent to commit first degree murder, and a conviction for attempted rape.

Appellant's challenge to this finding is without merit.

The second aggravating factor found by the trial court is that the murders were heinous, atrocious, or cruel. The facts support this finding. The appellant was in Naples to visit his daughter. He had no money and no place to stay. Bertha Skillen and George Ahern invited appellant to stay in their apartment. When Mrs. Skillen discovered that Norma was planning to leave Naples with the appellant, she attempted to call the police. Appellant shot and killed Skillen at that time. Shortly after this, Ahern returned to the apartment. He and Christopher went to the bank so that Ahern could give Christopher some money. When they returned to the apartment Christopher knocked Ahern down. Ahern then ran for the bedroom and tried to shut the door. Christopher pushed open the door and shot Ahern while Ahern was sitting on the bed.

It is common knowledge that discretion and judgment are essential to the judicial process, and are present at all stages of its progression - arrest, arraignment, trial, verdict, and onward through final appeal. State v. Dixon, 283 So.2d 1, 6 (Fla. 1973), cert. denied, 416 U.S. 943 (1974). Judicial discretion in the context of the sentencing statute, section 921.141, Florida Statutes, must be reasonable and controlled, rather than capricious and discriminatory. Id. at 7. The discretion exercised by the trial judge in entering a sentence of death was reasonable and controlled, as required in Dixon.

We also held in Dixon that when one or more aggravating circumstances are found, the death penalty is presumed proper unless the aggravating circumstance or circumstances are overridden by one or more of the mitigating circumstances. 283 So.2d at 9. In the instant case it does not expressly appear from the specific findings of fact that the trial judge found the existence of any mitigating circumstances. Indeed, his written findings expressly negate the existence of any mitigating circumstances.

The findings of the trial court are supported by the facts

and testimony in the record. No reversible error has been demonstrated. We therefore hold that the judgment and sentence of death upon the appellant, William D. Christopher, are affirmed.

It is so ordered.

BOYD, OVERTON, ALDERMAN and McDONALD, JJ., Concur
SUNDBERG, C.J., Concurs in the result only

An Appeal from the Circuit Court in and for Collier County,

Charles T. Carlton, Judge - Case No. 77-468-CF-A-11-CTC

Jerry Hill, Public Defender and James R. Wulchak and David A. Davis, Assistant Public Defenders, Bartow, Florida,

for Appellant

Jim Smith, Attorney General and James S. Purdy, Assistant Attorney General, Tampa, Florida,

for Appellee

IN THE SUPREME COURT OF FLORIDA

WILLIAM D. CHRISTOPHER,	:	
Petitioner,	:	
vs.	:	Case No. 55,698
STATE OF FLORIDA,	:	
Respondent.	:	
	:	

MOTION FOR REHEARING

The Appellant, WILLIAM CHRISTOPHER, asks this Honorable Court to reconsider the opinion it filed in his case for the following reasons:

1. This Court said on page three of it's opinion that: "...we find no evidence that the Appellant exercised his right to halt the interrogation. The Appellant continued his conversation with the interrogating deputies of his own free will." (Emphasis supplied) This Court, however, has overlooked the following statements made by Christopher during the police interrogation which is some evidence that he wanted to halt the interrogation. Miranda v. Arizona, 384 U.S. 436 (1966):

> CHRISTOPHER: Well, save--
>
> YOUNG: Now wait a minute. Yea, I accused you, for we signed a warrant against you.
>
> CHRISTOPHER: Okay.
>
> YOUNG: Ah--
>
> CHRISTOPHER: Then I got nothing else to say. If you're accusing me of murder, then take me down there.
>
> MILLS: You were accused when you come in here. You knew you were accused--
>
> CHRISTOPHER: That's right. That's right.
>
> MILLS: --you knew what you were accused of, and I told you what the girl was accused of, so don't make out like you don't know what you're accused of.
>
> CHRISTOPHER: Oh, ah,--I know what I'm accused of. I know that I'm accused of both murders.

MILLS: I told you awhile ago you were being charged with both murders.

CHRISTOPHER: Okay then. I got nothing else to say.

YOUNG: You mean it's all right as long as we accuse you of one?

MILLS: But all of a sudden when you're accused of two, you don't--

CHRISTOPHER: I'm not saying that, I know that, didn't I tell you awhile ago that I knew that ya, I was accused of both murders?

YOUNG: Yeah. You--you should know.

CHRISTOPHER: Okay then. What's the need of me saying anything then.

MILLS: What are you upset about?

CHRISTOPHER: You ask me? I'm upset about the fact that you're bringing my daughter up here, like I'm using her in this thing.

YOUNG: I'm asking you--

MILLS: I'm asking you to explain her actions in this thing?
(TR64-65)(Emphasis supplied)

2. This Court also said:

"Relying on Jarriel [v. State 317 So.2d 141 (Fla.4th DCA 1975)], Appellant claims improper coercion during the course of the interrogation. Appellant's reliance on Jarriel is misplaced."

Appellant did not rely upon or even cite Jarriel in his initial or reply briefs, and he requests this Honorable Court revise it's opinion to correct it's statement saying that he did.

3. This Court has overlooked the fact that the murders in this case do not fit into the fact patterns of those murders which this Court has classified as especially heinous, atrocious or cruel. State v. Dixon, 273 So.2d 1 (Fla.1973). Moreover, these murders are indistinguishable from the many murders for which death is the inappropriate sentence. Furman v. Georgia, 408 U.S. 238,313, 33 L.Ed.2d 346, 92 S.Ct. 2726 (1976)(White, concurring) The murders here were quick, instantaneous killings. Flemming v. State, 374 So.2d 954 (Fla.

(1979); Lewis v. State, Case No. 50,857 (Fla.opinion filed April 2, 1981), involving no torture or extended suffering, Knight v. State, 338 So.2d 201 (Fla.1976). The killings, moreover, did not involve any stabbing, Foster v. State, 369 So.2d 928 (Fla.1979) or choking. Peek v. State, 395 So.2d 492 (Fla.1981).

Further, premeditation alone is insufficient to make these murders heinous, atrocious or cruel. Armstrong v. State, Case No. 48,516 (Fla.opinion filed March 26, 1981); Lewis v. State, Case No. 50,851 (Fla.opinion filed April 2, 1981) Nor does the fact that Skillen befriended Christopher make the crime death worthy. Lewis v. State, 377 So.2d 640 (Fla.1979); Kempff v. State, 371 So.2d 1007 (Fla.1979).

These murders, in short, were simple killings, Lewis v. State, supra, which were not heinous, atrocious or cruel and for which death is the inappropriate penalty.

4. Appellant, therefore, asks this Honorable Court to reverse the trial court's judgment and sentence and remand for new trial, or reverse the trial court's sentence and remand for imposition of a sentence of life in prison.

Respectfully submitted,

JERRY HILL
PUBLIC DEFENDER
TENTH JUDICIAL CIRCUIT

BY: David A. Davis
DAVID A. DAVIS
Assistant Public Defender

Hall of Justice Annex
495 North Carpenter St.
Bartow, Florida 33830
(813) 533-6715 or 533-1184

Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to the Office of the Attorney General, Park Trammell Building, Eighth Floor, 1313 Tampa Street, Tampa, Florida, 33602, by mail on this 21st day of July, 1981.

David A. Davis
DAVID A. DAVIS

Supreme Court of Florida

THURSDAY, DECEMBER 10, 1981

WILLIAM D. CHRISTOPHER, Appellant,	**	
vs.	**	CASE NO. 55,698
STATE OF FLORIDA, Appellee.	**	Circuit Court Case No. 77-468-CF-A-31 (Collier County)

Received By
DEC 16 1981
Appellate Division
Public Defenders Office

The error asserted in the second ground of the petition for rehearing has been corrected in the opinion. The other grounds of the petition for rehearing are without merit. The opinion having been corrected, the petition for rehearing is denied.

A True Copy

TEST:

Sid J. White
Clerk Supreme Court.

jb

cc: Hon. William J. Reagan, Clerk
Hon. Charles T. Carlton, Judge
David A. Davis, Esquire
James S. Purdy, Esquire

81 6172
Case No.

RECEIVED
FEB 4 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM D. CHRISTOPHER,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

Petitioner, WILLIAM D. CHRISTOPHER, asks leave to file the attached Petition for Writ of Certiorari to the Supreme Court of Florida without prepayment of costs and to proceed in forma pauperis pursuant to Rule 46. The Petitioner's affidavit in support of this motion is attached hereto.

Respectfully submitted,

JERRY HILL
PUBLIC DEFENDER
TENTH JUDICIAL CIRCUIT

BY: William C. McLain
WILLIAM C. McLAIN
Assistant Public Defender

Hall of Justice Annex
495 N. Carpenter Street
Bartow, FL 33830-3798
(813)533-6715 or 533-1184

COUNSEL FOR PETITIONER

RECEIVED
FEB 4 1982
OFFICE OF THE CLERK
SUPREME COURT U.S.

Case No.

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM D. CHRISTOPHER,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

AFFIDAVIT IN SUPPORT OF PETITIONER'S MOTION TO PROCEED IN FORMA PAUPERIS

I, WILLIAM D. CHRISTOPHER, being first duly sworn, depose and say that I am the Petitioner in the above-styled case; that in support of my motion to proceed on my Petition for Certiorari without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or give security therefor; and that I believe I am entitled to redress upon the issues presented in the Petition for Writ of Certiorari.

I further swear that:

1. I was convicted on August 18, 1978, in the Circuit Court for Collier County, Florida, on two counts of first degree murder, and in a single jury trial.

2. I received a sentence of death for each murder and am presently in custody on Death Row at Florida State Prison.

3. I appealed to the Supreme Court of Florida and that Court affirmed all of my convictions and sentences.

4. I am not employed and have no source of income.

5. I do not have any real estate, stocks, bonds, notes, automobiles or any other valuable property.

6. I have been represented by appointed counsel throughout my state court proceedings.

I understand that a false statement or answer to any question in this Affidavit will subject me to penalties for perjury.

William D. Christopher
WILLIAM D. CHRISTOPHER

Subscribed and sworn to before me this 1 day of Feb. 1982.

R. E. Lee
Notary Public

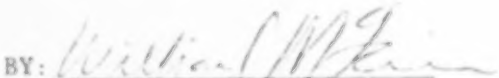
My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES MAR. 25, 1984

CERTIFICATE OF SERVICE

I, WILLIAM C. McLAIN, a member of the Bar of the Supreme Court of the United States and counsel of record for WILLIAM D. CHRISTOPHER, the Petitioner, hereby certify that on February 3, 1982, pursuant to Supreme Court Rule 28, I served a single copy of the foregoing Motion For Leave To Proceed In Forma Pauperis with attached Affidavit on each of the parties as follows:

On the State of Florida, The Respondent, by depositing said copy in the United States Post Office, Bartow, Florida, with first class postage prepaid, properly addressed to James S. Purdy, Assistant Attorney General, Park Trammell Building, 1313 Tampa Street, 8th Floor, Tampa, Florida 33602.

BY: 

WILLIAM C. McLAIN
Assistant Public Defender
Chief, Capital Appeals

RECEIVED
MAR 9 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Case No. 81-6172

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM D. CHRISTOPHER,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

JIM SMITH
ATTORNEY GENERAL

By

ROBERT J. LANDRY
Assistant Attorney General
1313 Tampa Street, Suite 804
Park Trammell Building
Tampa, Florida 33602
(813) 272-2670

- and -

SAMUEL ROBERT MANDELBAUM
Assistant Attorney General
1313 Tampa Street, Suite 804
Park Trammell Building
Tampa, Florida 33602
(813) 272-2670

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

	Page
OPINION BELOW	1
STATEMENT OF THE CASE	1-10
SUMMARY OF THE ARGUMENT	11
ARGUMENT	12-18
THIS COURT SHOULD NOT ISSUE THE WRIT SINCE THERE IS NOT ANY REAL AND SUBSTANTIAL FEDERAL QUESTION RIPE FOR REVIEW WHICH WOULD BE DISPOSITIVE OF THE ISSUES IN THIS CAUSE.	
CONCLUSION	19
CERTIFICATE OF SERVICE	20

TABLE OF AUTHORITIES

	Page
Bertone v. State, 224 So.2d 400 (Fla.3d DCA 1969)	13
Cardinale v. Louisiana, 394 U.S. 437 (1966)	14
Durley v. Mayo, 351 U.S. 277 (1956)	12
Martin v. Walton, 368 U.S. 25 (1961)	12
Mental Hygiene Department v. Kirchner, 380 U.S. 194 (1965)	12
Michigan v. Mosley, 423 U.S. 96 (1975)	14,15,17
Miranda v. Arizona, 384 U.S. 436 (1966)	Passim
North v. State, 65 So.2d 77 (Fla. 1952)	13
Parker v. State, 369 So.2d 112 (Fla.1st DCA 1979)	13
Rice v. Sioux City Cemetary, 349 U.S. 70, 99 L.Ed.2d 897, 75 S.Ct. 614 (1955)	12
Russell v. State, 270 So.2d 462 (Fla.3d DCA 1972)	13
Sanks v. Georgia, 401 U.S. 144 (1970)	12
Shea v. State, 167 So.2d 767 (Fla.3d DCA 1964)	13
Silver v. State, 188 So.2d 300 (Fla. 1966)	13,14
United States v. Mearns, 443 F. Supp. 1244 (D.Del. 1978)	17
Whitted v. State, 362 So.2d 668 (Fla. 1978)	14
Wilner v. Character Committee, 373 U.S. 96 (1963)	12
Witt v. State, 342 So.2d 497 (Fla. 1977)	16

OPINION BELOW

The opinion of the Florida Supreme Court sought by Petitioner for review is officially reported as Christopher v. State, 407 So.2d 198 (Fla. 1981).

STATEMENT OF THE CASE

The Respondent is dissatisfied with the Petitioner's statement of the facts in that it presents only an isolated and brief segment of the dialogue which had long preceded the Petitioner's taped confession by over two hours. Respondent considers it necessary to provide a full recount of the sequence of events and circumstances which led up to and surrounded the Petitioner's confession.

On May 10, 1978, the Petitioner had filed a Motion to Suppress his confession in the state trial court (A1-2). Petitioner asserted two grounds for the motion:

(1) Petitioner's confession was involuntary in that it was the product of express or implied promises;

(2) Petitioner's waiver of his right against self incrimination was a nullity since he allegedly "never expressly stated that he did not wish to consult with a lawyer prior to the interrogation" (A1).

A hearing on this motion was held before the state trial judge on May 19, 1978 (A4-138). The facts as adduced from the text of the suppression hearing (A4-138) and the Petitioner's prior taped statements (A139-190, 191-207) are as follows:

Deputy Young of Collier County, Florida, testified that on September 22, 1977, he was called by Sergeant Boswell of the

Memphis Police Department homicide division and informed that the Petitioner had been arrested in Memphis on a warrant for the murder of George Ahern. Deputy Young went up to Memphis that day, met with the Petitioner in the jail at the Memphis Police Department and had him brought up to Captain Smith's office on the third floor (A9). Captain Smith is in charge of the Memphis homicide division. His office is an L-shaped office, quite large with a desk, chairs, couch and table (A10). Photographs of the office were introduced into evidence at the hearing (A66). Petitioner was introduced to the officers in the room, consisting of Captain Smith, Sergeant Boswell, Lieutenant McCachren and Deputy Young (A10). After the introduction, Petitioner was advised of his Miranda rights from Deputy Young's Miranda card (A11). At the time, Petitioner was wearing Levis, tennis shoes and no shirt. Petitioner did not appear to be under the influence of any alcohol or drugs (A10). He responded to Young's questions, responded that he understood his rights, expressly did not want an attorney, and would talk to the officers (A13). Deputy Young then advised the Petitioner why he and Officer Mills had come up to Memphis and asked the Petitioner if he minded that they tape the conversation. He stated he did not mind (A13).

Young then turned on the tape recorder, named the people in the room for purposes of the tape and re-advised Petitioner of his Miranda rights for a second time from his card. This reading of Miranda rights was within five (5) minutes of the previous first reading (A14). This taped conversation is included in the annexed Appendix at A139-190.

This first tape began at 7:36 p.m. and ran for one hour and four minutes (A15-16). During the first taped statement, Deputy Young started the interview and Lieutenant Mills did

the questioning (A15).[1] The tape reflects that after a lengthy dialogue between the officers and the Petitioner, Lieutenant Mills suddenly indicated to the Petitioner that he did not believe his story:

> "MILLS: Bill, you know, Harold and I have been working on this since day one. And -- there's not, not a whole lot about the total situation that we don't know. Just let me say this. This is your situation, this is your ball game. You're old enough, I don't have to tell you how to play it, you play it how you want to, you know how I will play it.
>
> CHRISTOPHER: Well -- I'm going to say this. I know you're all going to try to burn me, you know.
>
> MILLS: I'm going to stick to the facts.
>
> CHRISTOPHER: Okay. Then I'm sticking to the facts. I never pulled a trigger on nobody in my life buddy. Never.
>
> MILLS: Bill, if that's the case, I can't understand why you're telling us what your're telling us.
>
> CHRISTOPHER: I don't understand what you mean by that.
>
> MILLS: I mean what you're telling us is just not true.
>
> CHRISTOPHER: Like you say, we're both playing a ball game.
>
> MILLS: I'm not playing a game.
>
> CHRISTOPHER: I'm not either.
>
> MILLS: I'm speaking to the facts.
>
> CHRISTOPHER: Okay. Okay. Fact one. Did I or did I not kill one or both of these people, I mean, I've been charged with killing uh, uh, with Charlie's right?
>
> MILLS: Right.
>
> CHRISTOPHER: Okay. Am I charged with killing Bertha too? I didn't do it, that's all I can tell you, you know.
>
> YOUNG: You didn't kill Charlie, or you didn't kill Bertha?

1/ In this first tape, Petitioner tells the "murder-suicide" story in which Ahern is alleged to have gone into the bedroom and shot himself in the head. Petitioner after hearing the shot, went into the bedroom only to see Ahern falling from the bed to the floor. He then stated that he went into the bathroom and found Bertha Skillin dead on the floor. She, too, had been shot in the head (A16).

CHRISTOPHER: I didn't kill neither one of them."

(A177-178)

Deputy Young emphasized to the Petitioner that he disbelieved Petitioner's story of Ahern's "suicide" since Ahern could not have possibly shot himself three times (A187). The officers then asked the Petitioner to explain his daughter's actions in the incident since she had left home, travelled, and "hid out" with the Petitioner (A185). The officers also felt that Norma was still a witness (A100) and may have been the motive for Ahern's murder:

> "YOUNG: Have you ever heard anybody tell you that Charlie [Ahern's nickname] or Norma or anybody ever tell you that he had made passes at her?
>
> CHRISTOPHER: Yeah. I've heard that from people up here in Memphis. He even pulled the blanket up on her, you know, while I was down there. I said something to him. What am I going to do? Hit an old fifty, some odd year old man? He's sick, or shoot him? That's really something to shoot somebody over though, isn't it?
>
> YOUNG: Well, that is why we're trying to find out why he was shot."

Moreover, Petitioner knew that he was the one charged with the murders, not Norma.[2] Petitioner then stated that if the officers were accusing him of murder he has "nothing else to say". The officers reminded the Appellant at that point . . .

> "MILLS: You were accused when you came in here. You knew you were accused --
>
> CHRISTOPHER: That's right. That's right.
>
> MILLS: -- you knew what you were accused of, and I told you what the girl was accused of, so don't make out like you don't know what you're accused of.
>
> CHRISTOPHER: Oh, ah, -- I know what I'm accused of. I know that I'm accused of

---

2/ It affirmatively appears from the second tape, discussed infra, that the only people accusing Norma of murder were the members of Petitioner's own family (A206-207). Petitioner also stated that he was clearly aware that Norma was only being charged as "a runaway" (A179).

both murders."

(A184)

Appellant continued to state that he was "upset" about the fact that the officers were "bringing his daughter up here. . .", and emphasized that his daughter had nothing to do with the deaths (A185).

After some brief discussion regarding Petitioner's daughter and his family, the questioning immediately ceased at Petitioner's request:

> "CHRISTOPHER: Well, look, I'm just constantly telling lies, look I ain't got nothing to say at all, pete, why I have, you know and that's it. I ain't saying nothing else.
>
> MILLS: Okay.
>
> CHRISTOPHER: That I'm charged with two murders, --------, is all I can say.
>
> MILLS: Okay. This brings us up to another point, which has nothing to do with what we're talking about. Ah, we're here from Florida and these warrants, these warrants are from Florida. Which you know you have to be extradited down there. That can come about several different ways, you can sign on whether you want -------- here. Ah, would you sign a waiver and go back?"

(A189-190)

At that point, the tape recorder was turned off promptly upon Petitioner's request (A190).

After the taped conversation was concluded, Petitioner inquired as to the existence of charges against his half-sister and half-brother (A17). Lieutenant Mills responded that he thought that they were being charged by the Memphis Police Department with aiding and abetting or accessory after the fact (A18). However, the officers from Collier County, Florida, emphasized to the Petitioner that they "had no control over" any possible Tennessee charges (A18). Officer Mills also in-

formed the Petitioner at this time that his daughter Norma was "being charged as a runaway, and she may be returned to Florida under those charges" (A101), pursuant to a "pick-up order" signed by Collier County, Florida, Judge Trettis (A18).

During this time, after the taping session, they were more or less taking a break, drinking coffee and smoking cigarettes (A70). Petitioner complained about being cold down in the jail and the Captain assured him he would get him a jacket (A70). Petitioner then went through his "murder-suicide" story again (A70). He was not being questioned at this time but was merely reciting the same story again on his own (A19).

Captain Smith then asked Lieutenant Mills if he could say something to the Petitioner. At that time, he told Petitioner that the story he was telling was not sustained by the facts as they knew them from the investigation and that Petitioner undoubtedly had a logical reason for doing what he did; that it wasn't logical to Curtis Mills but that he was sure it would have to be logical to the Petitioner (A71).

Thereafter, Petitioner "remained silent for a few minutes: (A102). After the brief period of silence, Petitioner suddenly started talking about years ago when Norma was born and given up for adoption (A20-21). He told a narrative covering the time up to the scheme at the victim's house (A20-21, 103). This, again, was not a question and answer period but was his own narrative story without questions being interjected (A21, 103). In this story he confessed to being the murderer of both victims (A21-22, 103).

Following this confession, Petitioner requested to call his mother for some clothes and cigarettes.[3] He was allowed to make the call from Captain Smith's office phone (A23, 72, 104). During the call, Petitioner placed his hand over the

---

3/ He had been supplied a jacket by Sergeant Boswell and had smoked almost a full pack of Deputy Young's cigarettes.

phone receiver and asked Captain Smith about his brother and sister (A72). Captain Smith and Lieutenant Mills stated that they would not pursue an aiding and abetting charge against his brother and sister (A72). The Captain then told the Petitioner that his mother could pick them up when she brought the clothes (A24, 72, 104-105).

After the telephone call, Petitioner was asked if he would write out a statement. He stated he didn't want to write it out but he agreed to a taped statement (A24, 72, 105). In this second tape (A191-207), Petitioner again gave a confession to the two murders after being advised of his Miranda rights for a third time (A193-194). The second taped statement began at 10:25 p.m. and ended 19 minutes later at 10:44 p.m. (A193, 207). The following dialogue appears at the beginning of the taped confession:

> "YOUNG: Today's date is September the 9th 1970 -- correction, September the 22nd, 1977. The time is 10:25 p.m. Location is ah, Memphis Police Department, Homicide Squad, Captain Tommy Smith's office. This will be a taped interview of WILLIAM D. CHRISTOPHER, white male, age 35. Present during this interview will be ah, Lt. Curtis Mills, Collier County Sheriff's Department, Sgt. J. C. Boswell, Homicide Squad, Memphis P.D. and Investigator Harold Young, Collier County Sheriff's Department. Bill, we're going to advise you of your rights once more, since you've talked to us you want to tell us about this thing, and you want it on tape, is that correct?
>
> CHRISTOPHER: Right.
>
> YOUNG: Okay. You have the right to remain silent. You understand that?
>
> CHRISTOPHER: Yes, sir.
>
> YOUNG: Anything you say, can and will be used against you in a court of law. You understand that?
>
> CHRISTOPHER: Yes, sir.
>
> YOUNG: *You have the right to talk to a lawyer and have him present with you while you are being questioned. Do you understand that?*

CHRISTOPHER: *Yes, sir.*

YOUNG: If you can't afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish. Do you understand that?

CHRISTOPHER: Yes, sir

YOUNG: *You can decide at any time to exercise these rights, and no answer any questions or make any statements. Do you understand that?*

CHRISTOPHER: *Yes, sir.*

YOUNG: Do you understand each of these rights that I have explained to you?

CHRISTOPHER: Yes, sir.

YOUNG: *Having these rights in mind, do you wish to talk to us now?*

CHRISTOPHER: *Yes, sir.*

YOUNG: *Bill, would you rather have an attorney here at this time?*

CHRISTOPHER: *No*, sir.

YOUNG: Okay. *Are you going to give a statement on your own free will without threat, promise?*

CHRISTOPHER: *Right.*

YOUNG: Okay. Would you go ahead and tell us, you talked to us off tape, you said you wanted to make a taped statement, rather than a written statement?

CHRISTOPHER: Right.

YOUNG: This tape will be transcribed, and you can read it and sign it later, is that correct?

CHRISTOPHER: Right.

YOUNG: Okay. Just in your own words, do you want to go ahead and tell us what you told us a minute ago, in reference to this ah, --

CHRISTOPHER: Okay. Should I just start from that morning?

YOUNG: Just start from what led up to it, okay? I think that's all we need, isn't it?

CHRISTOPHER: Okay. Ah --"

(A193-194)
[emphasis added]

At the conclusion of the Petitioner's taped confession to the two killings the following exchange occurred:

"YOUNG: Ah, we're going to end this interview now, ah, Bill, But we want ah, *have you been promised or threatened or anything --*

CHRISTOPHER: *No, sir, I haven't been promised. I haven't been threatened*

YOUNG: -- in return for your statements? *What is the reason for you giving this statement?*

CHRISTOPHER: *The main reason I'm giving this statement is to clear my daughter of anything, because she's not guilty of nothing*, and my family, ah it's like Capt. Smith said awhile ago, ah, he's willing to let my brother and my sister go, I mean, they, they had been charged with accessory after the fact, they're not guilty of it.

YOUNG: No one -- *has anyone accused your daughter of murder?*

CHRISTOPHER: Her mother has. Her natural mother.

YOUNG: I mean, I mean, I'm talking about the police?

CHRISTOPHER: *No, not that I know of*, off -- I, just what I heard, I heard from my aunt that Walter Kruse, which is a police officer here in Memphis that I grew up with, said that the warrant was coming in, that they believe that ah, that my daughter had killed Bertha, and I had killed Charlie, and that isn't so, because my dauther was in school.

YOUNG: Bill, that you're giving that statement on your own free will?

CHRISTOPHER: *I was giving it on my own free will.*

YOUNG: Okay. We want to end this statement now, we end at 10:44 on September the 22nd, 1977."

(A206-207)

After hearing the above testimony and tape-recorded statements, the trial judge denied Petitioner's motion to suppress, specifically finding that Petitioner had voluntarily and knowingly waived his right against self-incrimination (A127). The trial judge further found:

". . . the Court's of the opinion that the law enforcement officers in the first instant did not offer any promise of

leniency for the defendant's family, and that the statement was not based upon hope for any leniency because the officers just did not offer it to him in examining the record as a whole."

(A137)

SUMMARY OF THE ARGUMENT

This Court cannot consider the Petitioner's proposed federal constitutional issue for certiorari review since it was never previously raised before the state trial court. Even if it had been properly raised, Petitioner has not presented a real and substantial federal questions that would be dispositive of the cause. Petitioner voluntarily confessed to the murder on his own free will, after being made aware that his family members had not been implicated in the murders and after receiving detailed and painstaking Miranda warnings for a third time. Thus, even if Petitioner's conduct could be deemed as indicating a desire to remain silent, this desire was unequivocally, knowingly, and voluntarily waived.

ARGUMENT

THIS COURT SHOULD NOT ISSUE THE WRIT SINCE THERE IS NOT ANY REAL AND SUBSTANTIAL FEDERAL QUESTION RIPE FOR REVIEW WHICH WOULD BE DISPOSITIVE OF THE ISSUES IN THIS CAUSE.

As a general rule, in order for a state court decision to be subject to certiorari review by this Honorable Court on the ground that a "federal question" is involved, it is necessary that such a question be "real and substantial". Martin v. Walton, 368 U.S. 25 (1961); Wilner v. Character Committee, 373 U.S. 96 (1963). It is also necessary that a decision thereof should be essential to disposition of the issues presented in the case. Durley v. Mayo, 351 U.S. 277 (1956). The U.S. Supreme Court has always been wary of assuming jurisdiction of a case from state court on grounds of a "federal question", and a policy of strict necessity will be applied. Mental Hygiene Department v. Kirchner, 380 U.S. 194 (1965); Sanks v. Georgia, 401 U.S. 144 (1970). This Court has been "consistent in not granting the writ of certiorari except in cases involving principles the settlement of which is of importance to the *public* as distinguished from that of the *parties*". Rice v. Sious City Cemetary, 349 U.S. 70, 99 L.Ed.2d 897, 75 S.Ct. 614 (1955).

In the Petitioner's application for a writ of certiorari, he has not presented a "real and substantial federal question" for review which is dispositive of the cause or of great public importance.

It must be initially pointed out that the Petitioner had not raised this federal constitutional issue in the state trial court. In the motion to suppress his confession, the Petitioner raised two grounds for suppression: He alleged

that the confession was 1) involuntary because it was induced by promises of leniency, either express or implied, for members of his family, and 2) that the waiver of Miranda[4] rights was a "nullity" because he never stated that he did not wish to consult with a lawyer prior to interrogation (A1-2). These are the same (and only) two grounds argued at the suppression hearing (A4-5). However, not only are these particular claims unsubstantiated and contradicted by the dialogue in the record, but these particular grounds have not even been challenged on appeal to the Florida Supreme Court on in this Court.

Petitioner does not allege or even infer in the Petition sub judice that his confession was constitutionally impermissible due to involuntariness or a null and void waiver as asserted at trial. Rather, he contends that he had indicated "in any manner" that he wished to remain silent, and that the officers had failed to "scrupulously honor" his right to cut off questioning.

Under Florida law, where an objection to the admission of certain evidence is on a particular ground, no new or other grounds may be considered by the reviewing court. North v. State, 65 So.2d 77 (Fla. 1952); Shea v. State, 167 So.2d 767 (Fla.3d DCA 1964); Bertone v. State, 224 So.2d 400 (Fla.3d DCA 1969) cert. den. 234 So.2d 117 (Fla. 1970) U.S. cert. den. 398 U.S. 943 (1970); Russell v. State, 270 So.2d 462 (Fla.3d DCA 1972); Parker v. State, 369 So.2d 112 (Fla.1st DCA 1979). Florida law also clearly states that an appellate court will not consider an issue, even of constitutional dimensions, which is raised for the first time on appeal. Silver v. State, 188

4/ Miranda v. Arizona, 384 U.S. 436 (1966).

So.2d 300 (Fla. 1966); Whitted v. State, 362 So.2d 668 (Fla. 1978). Further, it was established long ago by this Court that it will not decide federal constitutional issues raised here for the first time on review of state court decisions. Cardinale v. Louisiana, 394 U.S. 437 (1966). Thus, the issue asserted by Petitioner should not be considered now.

Even if the suggested "federal question" could be considered as properly presented to this Court, the texts of the suppression hearing and the Petitioner's taped statements reveal that when the Petitioner clearly expressed his wish to terminate the first taping session, the Petitioner's wish was scrupulously honored (A190). His taped confession did not come until almost two hours later, after receiving full and detailed Miranda warnings for a third time, and waiving those rights (See A193-194).

Under Miranda v. Arizona, 384 U.S. 436, 16 L.Ed.2d 694, 86 S.Ct. 1604 (1966), once an individual in custody indicates in any manner that he wishes to remain silent, the interrogation must cease. However, as was emphasized in Mosley, this Court has rejected a literal interpretation of Miranda, holding that the exercise of the right to remain silent does not preclude all further questioning. Statements obtained after an initial exercise of the right to remain silent are admissible where the individual's "right to cut off questioning" has been "scrupulously honored". Mosley, 423 U.S. at 104-107. Further, an accused can voluntarily and knowingly waive his rights against self-incrimination, especially after being advised of their existence. Miranda, 384 U.S. at 471, 475. This Court in Mosley observed that the majority's "only stated purpose" in Miranda is "to exclude all confessions

which are the result of involuntary waivers. To exclude any others is to deprive the factfinding process of highly probative information for no reason at all." Mosley, 423 U.S. at 111.

In support of his Petition, the Petitioner claims that it is necessary for this Court to explain the term, "in any manner", as used in the context of Miranda, in order to decide whether he had ever actually invoked his right to remain silent. However, under the facts of this case sub judice, Petitioner's suggested "substantial federal question" would not even arguably be dispositive.

The record reveals that the Petitioner had at first been given his Miranda rights on two occasions and expressly stated that he understood his rights, did not want an attorney, and would talk with the officers (A13-14). After Petitioner told his lengthy "murder-suicide" story and denied he was a killer, the officers expressed their disbelief (A177-178). Defensively, Petitioner made the qualified statement that *if* the officers were accusing him of murder, he had "nothing else to say" (A185). At that point, the officers reminded the Petitioner that he was originally brought for questioning upon a warrant charging him with these murders (A184). The Petitioner continued to express his daughter's non-involvement (A185). It was followed by a very brief discussion concerning Petitioner's family members and the extradition procedures (A185-190). The tape recorder was promptly turned off at Petitioner's request (A190).

After this, the transcript of the Motion to Suppress hearing indicates that the Petitioner, not the deputies, then began asking questions (A100). He wanted to know what was

going to happen to Norma and his brother and sister. Then, without being questioned, he reassured the deputies that Norma had nothing to do with the situation and he recounted the same suicide-murder story again (A19, 70, 101). The conversation was casual; the deputies and Petitioner were drinking coffee, smoking cigarettes and taking a break (A70). Petitioner then complained about being cold down in the jail and the Captain assured him that he would get a jacket (A70).

After Petitioner had recounted his murder-suicide story again, Mills told Petitioner that his story just didn't match up to the facts as they knew them (A102). Then Captain Smith told Petitioner that there had to be a logical explanation for what occurred and it might be logical to Petitioner.

> "A. (By Mills) Bill didn't say anything right away. He just kind of remained silent there for a few minutes, and then he started talking about when Norma was born."
>
> (A102)

Following the Petitioner's period of silence, the Petitioner's narrative started with Norma's birth and culminated in a confession to the two murders. The law accords him the opportunity to voluntarily change his mind and confess, Witt v. State, 342 So.2d 497 (Fla. 1977) cert. den. 434 U.S. 935 (1977).

After the narrative, Petitioner called his mother and then agreed to make a statement on tape after being assured that his sister and brother were not being charged (A72). He was again given his Miranda rights for a third time, which he specifically waived in detail (A193-194). The confession which Petitioner sought to suppress at trial was then taped (A192-207). At the end of the tape, Petitioner stated that

the confession was given of his own free will, without promises or threats, and for the purpose of clearing his family from implication (A206-207).

As in Michigan v. Mosley, 423 U.S. 96 (1975), this is not a case "where the police failed to honor a decision of a person in custody to cut off questioning, either by refusing to discontinue the interrogation upon request or by persisting in repeated efforts to wear down his resistance and make him change his mind", Mosley, 423 U.S. at 105, 106. Rather, this is a situation where the Petitioner voluntarily continued a discussion, after being made aware that his family members were not being charged in the killings, and decided to render a full narrative confession.

Upon discussing Mosley, the Court articulated in United States v. Mearns, 443 F. Supp. 1244, 1253 (D.Del. 1978) that not all statements made by a person after once deciding to cut off questioning is subject to suppression:

> "The question in each case must be whether under all the circumstances it can be said that the resumption of questioning was consistent with scrupulous observance of the right to cut off questioning. Where the law enforcement officials terminate the questioning on request, for example, and therafter resume questioning *after a change in circumstances giving rise to an inference that the person in custody may then wish to speak for reasons unrelated to the conduct or strategy of his inquisitions*, there is no conflict between the exercise of the right to remain silent and the resumption of questioning. Thus, *the discovery of new facts*, or a distinct charge of which the person may be suspected, or even the passage of a substantial period of time giving opportunity for reflection, may warrant a finding that there was no violation of the right to terminate interrogation."

Thus, even if the Petitioner had initially indicated "in any manner" that he had wished to cut off questioning, he subsequently waived his right against self-incrimination, did

so expressly, knowingly, and unequivocally, and this was done after discovery of the fact that his family members were not to be charged or implicated in the murders. There was no arguable violation of Petitioner's right to terminate interrogation. The confession was voluntary and properly admitted for the consideration of the jury along with the first tape. The jury heard them both as well as the testimony of the officers concerning what occurred between the tapes. No error has occurred.

CONCLUSION

The Petitioner has failed to present a real and substantial federal question for review which would be dispositive of the instant cause. Based upon the foregoing arguments and authorities the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

JIM SMITH
ATTORNEY GENERAL

ROBERT J. LANDRY
Assistant Attorney General
Park Trammell Building
1313 Tampa Street, Suite 804
Tampa, Florida 33602

Member of the Bar of the
United States Supreme Court

- and

SAMUEL ROBERT MANDELBAUM
Assistant Attorney General
Park Trammell Building
1313 Tampa Street, Suite 804
Tampa, Florida 33602
(813) 272-2670

RECEIVED
MAR 9 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Case No. 81-6172

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM D. CHRISTOPHER,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

A P P E N D I X

APPENDIX

TABLE OF CONTENTS

	Page
Motion to Suppress Confession	1-2
Hearing on Motion to Suppress Confession	3-138
Transcript of First Tape Recorded Statement	139-190
Transcript of Second Tape Recorded Statement	191-207

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR COLLIER COUNTY, FLORIDA
CRIMINAL ACTION

STATE OF FLORIDA	)	
	)	
vs	)	CASE NO: 77-468-CF-A-31-CTC
	)	
WILLIAM CHRISTOPHER,	)	
	)	
Defendant	)	
	)	

MOTION TO SUPPRESS CONFESSION

Pursuant to Rule 3.190(i), Florida Rules of Criminal Procedure, the Defendant, WILLIAM CHRISTOPHER, by and through his undersigned attorney of record, moves the Court to suppress a statement given to officers Curtis Mills and Harold Young of the Collier County Sheriff's Office and certain members of the Memphis Police Department on September 22, 1977 at the Memphis Police Department.

As grounds for this Motion the Defendant would show the Court that said statement was not voluntarily made and hence illegal, in that it was in response to police promises of lieniency against certain members of the Defendant's family. E.g., Jarriel v. State 317 So2d 141 (4th D.C.A. Fla. 1975). The effect of these promises, either express or implied, was to delude the accused as to his true position and exert an improper and undue influence on his mind in violation of the principles set forth in Miranda v. Arizona, 384 U.S. 436 (1966), accord, Harrison v. State, 152 Fla. 86, 12 So2d 307 (1942).

Further, the Defendant contends that the alleged waiver made at the time the statement was given was a nullity in that the Defendant never expressly stated that he did not wish to consult with a lawyer prior to the interrogation. Miranda holds that a valid waiver will not be presumed simply from the silence of the accused after warnings are given. Miranda supra at 470, 475. An examination of the transcribed statement here shows mere silence as opposed to a direct refusal of counsel rendering the statement illegal.

RECEIVED
MAY 10 4 29
WILLIAM M. OLIVER
CLERK OF CIRCUIT COURT
COLLIER COUNTY, FLA.

WHEREFORE, the Defendant requests the Court to grant this Motion to Suppress Confession.

I HEREBY CERTIFY that a true and correct copy hereof has been furnished the Office of the State Attorney, Collier County Courthouse, Naples, Florida by delivery on this the 10th day of May, 1978.

Robert G. Hines
Assistant Public Defender

A-2

HEARING ON

MOTION TO SUPPRESS CONFESSION

A-3

motions. The first motion that -- I guess it doesn't really matter what order we take them in. The first motion I will present to the Court is our motion to suppress the physical evidence in the case, and that motion has been filed with the Court. I will at this time provide the Court with the memorandum.

MR. BROCK: Your Honor, may I be heard on this point?

THE COURT: On what point?

MR. BROCK: The order in which we are taking these. There's also a motion to suppress the confession. During the presentation of our case on the issue of suppression of physical evidence, we intend to use the confession. Therefore, it would appear to be appropriate to consider the legality of the confession prior to our review of the other motion which he is to bring before the Court now.

THE COURT: Any objection?

MR. HINES: No, Your Honor.

THE COURT: All right. Let's proceed with --

MR. HINES: I am going to interpose an objection to use the confession during the argument on the motion to suppress physical evidence.

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

THE COURT: When we get there, we will hear what your objections are. Let's proceed with the motion to suppress the confession.

MR. HINES: Your Honor, the motion to suppress the confession has been previously filed with the Court, and it gives two grounds for the suppression of the confession made by the defendant in Memphis, Tennessee. The first ground is based on the fact that certain promises were made to the defendant both prior to and during the questioning of the defendant in Memphis by members of the Memphis Police Department and Collier County Sheriff's Department; and, as the motion states, the effect of these promises either express or implied was to delude the accused as to his true position and exert an improper and undue influence on his mind in violation of principles set forth in Miranda.

Basically, they were promises that if the defendant would cooperate, provide statements concerning what occurred here in Naples, that they would, the police would arrange for the release of certain persons held in custody at that time; namely, the defendant's half brother and half sister, Pam Scott and Charles Ray Scott, and the defendant's natural daughter, Norma Sands.

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER

In addition, the defense raises the contention or would submit that the alleged waiver -- there's two waivers which appear on the tape transcript, one made at the time of the first statement and a second waiver made after the, after the gap in the tape and subsequent to the, I mean, prior to the second statement, and we would contend that both of these waivers do not meet the standard set forth in Miranda in that they are simply a waiver, a statement of the defendant's Miranda rights followed by a statement, "Having these rights in mind, do you wish to make a statement?" And it's our contention based on some case law we are prepared to offer to the Court that this is not a valid waiver under Miranda, that it requires an affirmative statement on the part of the defendant he did waive his right to counsel, and that therefore we are attacking the confession on two grounds: number one, mainly that there was no valid waiver under Miranda and of the rights, particularly the right to counsel; and, secondly, that there was no valid, that the confession was invalid in that there were promises made, and I am sure the Court is aware. I don't have to cite all the cases holding that if in fact there were any promises

made to the defendant, whether they be express or implied promises of leniency in any fashion, then that taints the confession and renders it inadmissible.

I believe that the State has the burden of proving by a preponderance of the evidence that both the voluntariness issue and also the question of the waiver and particularly with regard to the voluntariness, I believe that the standards set forth in McDole versus State, the trial court is required to find, make finding of voluntariness with unmistakable clarity, so I believe it's their burden. That is 283 Southern Second 553.

MR. PELLECCHIA: The State would call Harold Young to the stand, Your Honor.

MR. HINES: Your Honor, before we begin, I'd like the rule invoked.

THE COURT: All right. You gentlemen have your witnesses come forward to the rail.

MR. PELLECCHIA: These will be witnesses with regard to motion to suppress confession?

MR. HINES: Yes.

THE COURT: You have five witnesses or four?

MR. PELLECCHIA: Four, Your Honor.

THE COURT: Do you have witnesses?

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE
NAPLES, FL 33940

MR. HINES: The defendant.

THE COURT: All right. Of course, he will be excluded from the rule. Gentlemen, a rule of procedure has been invoked which requires exclusion of witnesses during taking of testimony. Please do not discuss the testimony or the case among yourselves or with anybody else. You may talk to lawyers if you so desire. At this time you may be excused from the courtroom.

HAROLD YOUNG,

a witness called by the State, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PELLECCHIA:

Q State your name, please.

A Harold Young.

Q What is your occupation?

A Deputy sheriff, Collier County Sheriff's Department.

Q Do you hold any particular duty capacity with regard to your occupation as a deputy sheriff?

A Criminal investigator.

Q How long have you been so employed by the department?

A Four years this coming October.

A-8

Q In your capacity as an investigator, did you have occasion to become involved in the investigation into the deaths of George Ahern and Bertha Skillin?

A Yes, I did.

Q In the course of your investigation, did you have an occasion to go to Memphis, Tennessee, on or about September 22nd, 1977?

A Yes, sir.

Q How did it happen that you went to Memphis?

A I was called by Sergeant Boswell that William Christopher had been arrested on murder warrant.

Q Who is Sergeant Boswell?

A He is with Memphis Police Department, homicide.

Q On that date did you have occasion to come in contact with the defendant in this case, William Christopher?

A Yes, I did.

Q Where did that first meeting take place?

A At the jail in Memphis Police Department.

Q Who was present?

A Sergeant Boswell and some -- I don't know who the jailer was.

Q What did you do there?

A We brought him from the jail to Captain Smith's office on the third floor.

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE
NAPLES, FL 33963

Q Who is Captain Smith?

A He is in charge of homicide, Memphis Police Department.

Q Would you briefly describe Captain Smith's office?

A Captain Smith's office, it's more or less an L-shape office, quite large, desk, chairs, and couch, and table.

Q What occurred upon your entry in Captain Smith's office?

A I introduced myself to Christopher and the other people in the room, set him down, advised him of his rights from a card, Miranda card, and started talking to him briefly in reference to what we were there for, and then I asked him if he minded if we taped the conversation.

Q Let's back up a moment. You said you introduced him to certain people in the room. Who was present in the room besides yourself and the defendant?

A Captain Smith, Sergeant Boswell, Lieutenant Mills, Lieutenant McCachren, and myself.

Q Lieutenant Mills being of our sheriff's department and the other individuals of the Memphis Police Department?

A That's correct.

Q You say you brought the defendant into the room, made these introductions, and you advised him of certain rights. Did you use anything to assist you when you advised him of his rights?

A Yes, sir. Yes, my card.

Q Do you have that card with you today?

A Yes.

Q Would you take it out? Read it to the Court in the manner in which you advised William Christopher at the time.

A I read, "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish. You can decide at any time to exercise these rights and not answer any questions or make any statements. Do you understand each of these rights I have explained to you? Having these rights in mind, do you wish to talk to us now?"

Q When you first advised the defendant as per your Miranda card, did you have a tape recorder going at that time?

A Not at that first time, no, sir.

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE
NAPLES, FL 33940

Q Would you describe for the Court, please, the defendant's physical appearance at the time that you advised him of his rights?

A The defendant was wearing, I think, tennis shoes of some nature and Levis and no shirt.

Q No shirt?

A No, sir.

Q Have you ever dealt with people in your work who were under the influence of alcohol or any narcotics?

A Yes, sir.

Q How long did you say you were a police officer?

A I have been in police work since, full time since 1967.

Q In your capacity you became involved, you became involved in narcotic investigations, I would take it, and, say, DUI cases?

A Yes, sir.

Q Did the defendant appear to be under the influence of any alcohol or drugs at the time you advised him of his rights?

A No, sir, he did not.

Q Did the defendant respond to your questions when you read the Miranda card to him?

A Yes, he did.

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

Q What was his reponse?

A He responded he understood and he would talk to us.

Q Did the defendant appear to understand your questions regarding -- excuse me. Strike that. Was the defendant's speech coherent?

A Yes, sir.

Q Did the defendant respond when asked whether or not he wanted an attorney at that point in time?

A Yes, sir, he replied he did not.

Q Did the defendant ever at this point in time invoke his right to remain silent?

A No, sir.

Q Did the defendant agree to answer your questions at the time without an attorney being present?

A Yes, sir.

Q After you advised him of his rights, what next occurred in the sequence of events?

A That is when we briefly told him what we were doing in Memphis, who we were, and I asked if he minded if we taped the conversation.

Q What was his response to that question?

A He stated he did not mind.

Q What first occurred when you turned on the tape recorder?

A I again named, I think, who was in the room and again I advised him of his rights, read from the card again.

Q Did you advise him in a similar fashion as you had previously?

A Same way, sir.

Q What was the span of time in between the time you first advised him and the time of the second advisement of his rights?

A I'd say less than five minutes.

Q At that point in time did he invoke his right to remain silent?

A No, sir.

Q Did the defendant agree to answer your questions at the time without having an attorney present?

A Yes, sir, he did.

Q After you advised him of his rights, do you recall asking him specifically whether or not he had a right to have a lawyer and have him present with you while he was being questioned, what his response was?

A I advised him his rights per Miranda. He stated he did understand his Miranda, the right to remain silent, and he stated he would talk to us without an attorney.

Q What we are getting at, you did this in the

same fashion the second time on tape as you had advised him the first time off tape?

A That's correct.

Q And that would end with the question, "Having these rights in mind," or words to this effect, "do you wish to make any statement and do you understand each of these rights as I have explained them to you?"

A He answered the question, and I asked him if he wished to talk to us now, and he stated yes.

Q What time did this occur approximately, if you recall?

A We started the tape around 7:36 or somewhere around that period of time on the 22nd.

Q Who -- during this portion of the interview, you indicated, there were several officers in the room, yourself, Captain Smith, Lieutenant McCachren, Lieutenant Mills, Sergeant Boswell. Who during this first tape recording statement conducted primarily the interrogation?

A I started the interview and Lieutenant Mills did the questioning.

Q How long did this interview last?

A We had a tape. It was one hour, I think, one minute on one side of the tape, and then we turned the tape immediately when it ran out, and I think it was three minutes on the other side of the tape, so about an

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIN COUNTY COURTHOUSE

hour and four minutes.

Q Without going into the details of the statement itself at this time, would you give the Court the gist of what the defendant related to you during this what I will refer to as the first taped statement?

A He was telling us about being at the apartment and that he was there and him and George Ahern and when George Ahern went to the bedroom, he heard a gunshot. He went in. He found George Ahern lying on the bed and then fell on the floor and he checked his pulse, found none, and looked in the bathroom and found Bertha Skillin also had been shot in the head.

Q Would it be proper for me to suggest at this time that basically, for the purpose of the hearing, that a proper classification of his statement to you on tape, number one, let's say, was that a suicide-murder had occurred?

A Yes.

Q To which he was in the vicinity of?

A Yes, sir.

Q Did there come a time when the tape recorder was turned off?

A Yes, there was.

Q And approximately how long after you turned on the tape recorder did you turn it off?

A I'd say about an hour and four minutes.

Q At whose request was the tape recorder turned off?

A Mr. Christopher.

Q You are pretty precise with your timing. Did you have occasion to play the tape recently?

A Yes, sir.

Q So, the defendant requested that the tape recording be turned off? Was the tape in fact turned off?

A Yes, I turned it off.

Q And what occurred then?

A He was more or less talking to Lieutenant Mills at that time, that he asked a question again in reference to his daughter Norma, where she was at, and then asked what charges were pending against his sister and brother.

Q Okay. Were you present at the time these questions were directed toward Lieutenant Mills, I take it?

A Him and Lieutenant Mills were talking. At that point I did not get involved in the interview or the conversation.

Q Did you have occasion to overhear the responses to the defendant's questions?

A Yes, I did.

A-17

Q Basically, what were those responses?

A He then asked. We told him -- I think Lieutenant Mills told him that they were being charged with a Memphis police charge, we thought, aiding and abetting or accessory after the fact, of some sort that we had no control over.

Q When you say they, you are referring to Charles Scott and Pam Scott, brother and sister of the defendant?

A Yes, sir.

Q And what was the defendant advised with regard to Norma Sands, his natural daughter?

A Lieutenant Mills told him that Norma Sands was being held on a pickup order from Collier County and also one from Memphis police or Tennessee authorities.

Q And after this order issued by Judge Trettis for runaway?

A Also an order signed in Memphis by Judge Turner, I believe.

Q What other topics were discussed at this point in time in the chronology?

A That is it, and then he immediately started talking again about the murder or homicide-suicide thing.

Q At this point in time there was no tape recording going?

A No, sir.

Q Did he -- when he began talking about the suicide-murder, are we talking about a similar statement that he made on the tape number one?

A Basically the same.

Q And was he being questioned at this point in time?

A Not really. He was more or less talking on his own. There was no questions asked at that time.

Q Okay. So, he goes through and repeats basically the same story he had given with regard to the suicide-murder?

A Yes, sir.

Q At any point while you were there -- let me back up a second. Strike that question. Let me ask you, were you there the entire time --

A Yes.

Q -- Christopher was in Captain Smith's office?

A Yes, sir.

Q Do you recall any of the other officers leaving during the phases you talked about thus far?

A Not that I recall.

Q Did you or anyone indicate that from the facts you knew concerning the investigation as was known to you, and let's say, Lieutenant Mills, that the deaths

in question occurred other than in a manner in which the defendant was testifying or was telling you in his statement with regard to the suicide-murder?

A Lieutenant Mills expressed to him that he felt what he told him was not true and that the facts might be different than what he was saying.

Q And what was Christopher's response, if you recall?

A I don't recall his exact response at that time. I know he denied, said that he was telling the truth.

Q Okay. And at about this point in time, did anyone else interject any questions to or make any statements to the defendant?

A Captain Smith made a statement.

Q And if you recall, what, in fact, was Captain Smith's statement?

A It was generally -- to the best of my recall, he told him that he felt that there was a logical reason for this thing to happen; he felt that Christopher had a logical reason for doing what he did, and that was basically what he told him.

Q Okay. And then what occurred?

A I think Christopher started talking about years ago when Norma was born and given up for adoption

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

and went from that period of time through the scene at Ahern's place.

Q When you say years ago, how old is Norma Sands, if you recall.

A I believe she is almost 16 now.

Q Okay. So, after Captain Smith and Lieutenant Mills made the remarks to which you just testified to, then Christopher to questions -- correct me if I am wrong -- in response to any questions began this dialogue with regard to going back numerous years?

A He more or less went on his own about when, when Norma was born. I think he stated that he was in jail at the time. She was given up for adoption while he was in jail. He didn't know about it, and through that he hadn't seen her in years, and his occupation.

Q So, basically he then goes back 15 years?

A Yes, sir.

Q And was this a question and answer session?

A No, sir, this was more or less his own story he was telling without any questions being injected.

Q What is the general content of this phase of the interview with Mr. Christopher?

A There was the content that on the day, the 31st of August, that he was at the Teryl Road apartment

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

where Bertha Skillin resided and he had taken Norma to school that morning and returned and was having coffee with Bertha Sands, Bertha Skillin, correction, and that she had discovered that he and Norma were leaving, and he said that she had tried to get him to leave and he refused. And she went to call the police, and he shot her in the head, and at that time he drug her body to the bathroom and waited until George Ahern came because George Ahern was going to loan him some money.

And when George Ahern returned, him and George went to the bank, Citizens Bank up on North Trail, and where he withdrew $300, and they then returned back to the apartment, and he got in conversation in reference to George Ahern peeking at Norma or fondling her or something.

At this time, he said, he pushed George Ahern out and George Ahern ran to the bedroom, master bedroom, and closed the door. He at this time kicked the door down. When George Ahern was sitting on the bed, he shot him in the head with his .22, and that is when, he stated, he left the apartment, picked Norma up, and went to Memphis.

Q So then basically, just to review chronology, you got a tape statement where he is talking in terms of suicide and murder on tape?

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIN COUNTY COURTHOUSE

A Yes, sir.

Q Then a statement given off tape where he was talking in terms of suicide-murder followed by a statement in which he admits certain guilty acts on his part?

A That's correct.

Q And what occurred after that?

A After that he requested to call his parents or his mother, Mary Still, and stated he needed some clothes. It was cold in the jail cell and he didn't have no shirt.

Q Was he permitted to do so?

A Yes, sir, he was.

Q Did he in fact make the phone call?

A Yes, sir, he did.

Q Were you present during this period of time?

A Yes, sir.

Q During this period of time, was any questioning going on of him, I mean, when he was not on the phone?

A Before he made the phone call he wanted some cigarettes. It was one reason he made the phone call. I think I gave him almost a full pack of cigarettes and Sergeant Boswell, I think, gave him a jacket which was in there to wear while he was in jail until he got his clothing. Then he made the phone call.

Q During the period -- let's call this phase the

break -- when he is not being interrogated or being questioned in any fashion, correct, smoking cigarettes and drinking coffee?

A Yes, sir.

Q Was any reference made with regard to Pam Scott and Pete Scott by any of the officers in the room or by the defendant himself?

A Captain Smith told him at that time while he was talking, the phone call, that he could tell Mary to pick up Pam and Pete and also the car.

Q Was this while the defendant was on the telephone?

A Yes, sir.

Q Was this in response to any questions from the defendant of Captain Smith or was Captain Smith giving this information to --

A I think that he placed his hand over the phone and/or something and asked Captain Smith about Pam and Pete or something, and Captain Smith, as far as he was concerned, Mary could pick them up.

Q Placed his hand like this (indicating)?

A I believe that is the way he did it; I am not positive.

Q Then what occurred, went on following the phone call?

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIN COUNTY COURTHOUSE

A Then at that time we sat back down, and I asked Christopher if he would write me out a statement of the confession.

Q What was his response to that?

A He stated he didn't want to write it out. Then I asked him if, "do you mind if I tape one?" And he replied he did not mind.

Q And did you go back on tape at this point in time?

A Yes, sir.

Q What was the first thing you did after you went back on tape?

A I don't recall. I don't know whether I stated the date, time, and present. I advised him of his rights. I read from the Miranda warning card.

Q Have you had an occasion to review the tape recording?

A Yes, sir.

Q And you did -- in regard to that, did you advise him in the same manner you had the first two times?

A Yes, sir.

Q With regard to the Miranda warning?

A Yes, same way. I think I did inject if he wanted a lawyer a couple of times.

MR. PELLECCHIA: Okay. Your Honor, at this

in time I do have the two tapes present. They are in the possession of Harold Young. However, rather than going through the tapes, unless there's some objection from the defendant, I would like to have Mr. Young review the two methods by which he advised Christopher of his rights on the first statement and the second statement. If the Court would prefer, we could wind the tape back and forth for that purpose without getting into the entire transcript of all interrogation and statements, pertaining strictly to the Miranda rights. Any objection to that procedure?

MR. HINES: What the State wants is to just play those portions of the tape concerning what was said about the Miranda rights?

MR. PELLECCHIA: I will give you an alternate, either play the tape or we could have Detective Young read from the two statements.

MR. HINES: I would prefer him to read from the statements if the Court doesn't have any objection to that manner.

THE COURT: All right. Go right ahead.

Q Detective Young, I'd like you to take a look at the statement which begins at approximately 7:36 p.m. I believe you previously testified that this would be

his first tape statement?

A That's correct.

Q And would you read from the introductory phase down to there and the defendant's responses?

A It starts out: "This will be an interview with William David Christopher. The date is September 22, 1977. Present at the interview will be Lieutenant Curtis Mills, Collier County Sheriff's Department, Sergeant J. C. Boswell, Memphis P. D. homicide, Lieutenant McCachren, Memphis homicide, and Captain Tommy Smith, Memphis homicide."

It states: "Bill, before we go any further, I'm going to advise you of your rights. You have been advised once. You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one. You can decide at any time to exercise these rights and not answer questions or make any statements. Do you understand each of these rights as I have explained to you?"

He replied yeah. And I asked, "Having these rights in mind, do you wish to talk to us now?" He stated yes. "Okay. The time now is 7:36 p.m."

A-27

Lieutenant Mills interjected, "I want to ask a couple things. How old are you?"

Reply: "Thirty-five.

"How far did you go to school?

"Well, I, when I was locked up, I completed my GED and about a year and a half of college.

"Do you read and write the English language?"

He replied yes.

"You have no problems understanding when we talk to you about this thing?

"No, I understand."

Q And then subsequent to that the actual questioning begins of the events that he testifies to on the tape?

A That's correct.

Q And this is the first tape statement that you just read from?

A Yes, sir.

Q The manner in which you advised him of his Miranda rights again was the same in which you advised him the first time off tape?

A Same way.

Q Now, I would like to show you the tape statement which begins -- we will call it tape statement number two -- at 10:25 p.m., and would you read the first

page of that statement?

A Okay. "Today's date is September 22, 1977. The time is 10:25 p.m. Location is Memphis Police Department, homicide squad, Captain Tommy Smith's office. This will be a taped interview of William D. Christopher, white male, age 35. Present during this interview will be Lieutenant Curtis Mills, Collier County Sheriff's Department, Sergeant J. C. Boswell, homicide squad, and Investigator Harold Young, Collier County Sheriff's Department. Bill, we're going to advise you of your rights once more and you want to talk to us and tell us about this thing and you want it on tape, is that correct?'

He replied, "Right."

I asked the question: "Okay. You have the right to remain silent. You understand that?"

He replied, "Yes, sir.

"Anything you say can and will be used against you in a court of law. You understand that?"

He replied, "Yes, sir.

"You have the right to talk to a lawyer and have him present with you while you are being questioned. Do you understand that?"

He replied, "Yes, sir.

"If you cannot afford to hire a lawyer, one

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

will be appointed to represent you before any questioning if you wish. Do you understand that?"

He replied, "Yes, sir.

"You can decide at any time to exercise these rights and not answer any questions or make any statements. Do you understand that?"

He replied, "Yes, sir.

"Do you understand each of these rights as I have explained to you?"

He replied, "Yes, sir.

"Having these rights in mind, do you wish to talk to us now?"

He replied, "Yes, sir.

"Bill, would you rather have an attorney here at this time?"

He replied, "No, sir.

"Are you going to give this statment of your own free will without threat from us?"

He replied, "Right.

"Okay. Would you go ahead; you talked to us off tape and said you would rather make a taped statement rather than a written statement?"

He replied, "Right.

"This tape will be transcribed and you would read and sign it later; is that right?"

A-30

He replied, "Right."

Q Then basically, the contents of this second tape, tape number two, is where Christopher makes various admissions of guilt that he had made off tape when he spoke to you not in response to any questions and admits that he killed Bertha Skillin and George Ahern?

A That's correct.

Q Now, did you, Officer Young, or anyone present offer any hope or reward to the defendant in order to induce him to give you these statements?

A Absolutely not.

Q Let's talk first of statement number one, the statement where he speaks on tape of the suicide-murder.

A No, sir.

Q Let's talk in terms of statement number two where he again repeats off tape suicide-murder and then follows that up with a certain admission of guilt.

A He was not promised anything, no, sir.

Q And I take it that statement number three on tape that the same answer applies?

A Yes, sir.

Q Did you or anyone present coerce the defendant into making these statements to you?

A No, sir.

Q Did you or anyone present threaten the

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

defendant in any manner?

A No, sir.

Q At any time did you or anyone present promise to release Pam Scott, Pete Scott, or Norma Sands in order to induce the defendant to confess?

A No, sir.

Q At any time was an offer made not to charge them in order to obtain a truthful statement from the defendant?

A No, sir.

Q Not only release them but not charge them for anything?

A No, sir.

Q At any time did anyone tell the defendant, to your knowledge, yourself or any of the officers that Norma was a murder suspect?

A No, sir, I did not.

Q Any other benefits offered to the defendant?

A No, sir.

Q Did anyone promise him any leniency in order to get him to confess?

A No, sir, absolutely not.

Q At the end of the second taped statement, did you have occasion to ask the defendant whether or not he had been promised anything or threatened?

A-32

A Yes, sir, I think so.

Q You recall what his reply was?

A He replied something about what Captain Smith had said about his brother and sister.

MR. PELLECCHIA: Unless there's an objection, I will have him read the exact response.

MR. HINES: No objection.

Q Would you read from there to the end, right here?

A Okay. "We are going to end this interview now, Bill. Have you been promised or threatened or anything?

"No, sir, I haven't been promised anything, I haven't been threatened.

"What is the reason for you giving this statement?

"The main reason I'm giving this statement is to clear my daughter of everything because she's not guilty of nothing and my family. It's like Captain Smith said awhile ago, he's willing to let my brother and sister go, because they have them charged with accessory after the fact. They are not guilty of it.

"Has anyone accused your daughter of murder?

"Her mother has. Her natural mother has."

Question: "No, I mean the police?"

Christopher: "No, not that I know of, just what I've heard. I heard from my aunt that Walter" -- We got Crews. I think we found out his name was Crews.

MR. HINES: We will stipulate his name was Crews.

A (Continuing) "Who is a police officer in Memphis that I grew up with said that the warrant was coming in, that they believed that my daughter had killed Bertha and that I had killed Charlie and that isn't so because my daughter was in school.

"Bill, are you giving this statement of your own free will?

"Of my own free will.

"We will end this statement right now, time being 10:44 on September 22, 1977."

Q Again, I ask you did you in an effort to obtain the statement from William Christopher tell him that you would release his daughter, Pam Scott, Pete Scott?

A No, sir.

Q Did Captain Smith?

A No, sir, not that I heard.

Q Did Lieutenant McCachren?

A No, sir.

Q Did Lieutenant Mills?

A No, sir.

A-34

Q Did Sergeant Boswell?

A No, sir.

Q Were there any others in the room?

A No, sir.

Q That portion you read, "It's like Captain Smith said awhile ago, he's willing to let my brother and sister go, because they have them charged with accessory after the fact, they are not guilty of it," you recall who advised the defendant that his brother and sister had been arrested for accessory after the fact or something similar?

A Like I said, when we first went off the tape he asked us about them. I think Lieutenant Mills was the one who told him that the Memphis Police Department had arrested them and we had no control over that arrest, it was a Tennessee charge, and he thought it was accessory or aiding and abetting; he wasn't sure.

Q But no one at that point in time when you finished tape number one, when he asked to go off the tape and he asked you, he asked you questions about Norma and Pam and Pete, no one told him anything at any time about releasing them?

A No, sir.

Q Prior to giving the murder-suicide story off tape and ultimately the confession off tape?

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

A No, sir.

MR. PELLECCHIA: May I have a moment, Your Honor?

No further questions at this time.

CROSS-EXAMINATION

BY MR. HINES:

Q Officer Young, how long did you talk to the defendant before the first tape statement, would you say?

A I'd say probably less than five minutes.

Q And then did -- would you tell me again how long the first tape statement lasted?

A I believe it was an hour and four minutes, somewhere in that area.

Q Have you listened to that tape recently?

A Yes, I did.

Q Did you time it to see how long it ran?

A Yes, sir.

Q Did you know how long you were off tape? Were you able to calculate that?

A Probably an hour and, a little over an hour and a half, I think it was, from eight, 8:36 to 10:25.

Q And then I believe the second statement was a total of 19 minutes or something of that nature?

A 10:25 to 10:44, I believe.

Q Let me ask you this: did you make a statement

A-36

1194

to the defendant or ask him to affirmatively state to you that he was waiving his right to counsel, to the best of your recollection?

A Would you repeat the question?

Q In other words, did you ever propound a question to the defendant after you had advised him of his Miranda rights, "Knowing that you have a right to a lawyer, are you telling me now that you want to waive your right to a lawyer?" Did you ever say that to him?

A I read the Miranda warning, as I stated, and that was it on the first, second statement. On the second time, last taped statement, I did ask him that.

Q Now, let me ask you this: isn't it true that before you went in to question Christopher, you and Mills had already been here in Naples and you had been investigating this homicide, what you believed to be a homicide, for some period of time? Is that not true?

A That's true, yes, sir.

Q And you did believe that that was double murder, did you not?

A Yes, sir.

Q You didn't believe, you had no evidence to believe that it was a murder-suicide?

A No, sir.

Q And it's true, is it not, that you all felt

Christopher was responsible for those murders?

A Yes, sir.

Q At the time you talked to him?

A Yes, sir.

Q So, the first statement consisting of a total of 19 pages and lasting an hour, approximately one hour, during that period of time you and Mills really didn't believe anything the defendant was telling you, did you?

A He was telling some facts that were true.

Q But basically his explanation of how the homicide occurred, you didn't feel that that was a valid explanation?

A No, sir. I expressed to the defendant that, too.

Q And also on the 22nd, on the day that you questioned Christopher in Memphis, that night prior thereto you had talked to Norma, had you not?

A That afternoon, yes, sir.

Q And from your conversation with her, isn't it a fact that you and Mills had reached a conclusion that she was not directly involved in the murders?

A We had no evidence that she was.

Q All right. And you were aware, were you not, from having talked to her that there was something, some relationship between her and Christopher that was

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

more than a father-daughter relationship?

A We had rumors and from her.

Q From talking to her, her statements indicated that fact?

A Yes, sir.

Q So, you knew, you had all this in your mind when you went in there to question Christopher that night?

A Yes, sir, I did.

Q And based on your experience as an investigator and from, I assume you had seen the autopsy results and everything, it was your opinion again that this was a double homicide and not a murder-suicide?

A Yes, sir.

Q In fact, reviewing the statement, about the last six pages of the first 19 pages, is a sort of a tug of war between you and the defendant wherein you are trying to get him to tell you believe to be the truth?

A That's correct.

Q I believe that begins when Mills makes a statement about the fact that "there's not a whole lot about the total situation that we don't know" about, and from then on there's this interchange between you and the defendant wherein he keeps saying, "Well, I am telling you the truth," and you keep saying, "Well, we

know the facts and what you are telling us is not true based on the facts as we know them to be"?

A That's correct.

Q And this continues on until the tape finally goes off at his request?

A That's correct.

Q Now, there was some discussion about, about possible charges or the fact charges may or may not be filed against Norma and Pete and Pam before you went off the tape during the, during the first interview, was there not?

A I don't recall any discussion about Pam and Pete on that tape. I do recall him asking about Norma.

Q Would you like to see the transcript to refresh your recollection?

A Yes, if you would.

MR. PELLECCHIA: Can I have the page number?

Q Specifically, I am referring to your statement on page 15: "You've got a whole bunch of people drawed into this thing here, the whole family."

A Yes, I recall that statement.

Q So, there was a discussion not only of what charges may or may not have been filed against Norma but what charges may or may not have been filed against Pam and Pete and the other person that were, you believe --

A I was not specifically talking about charges, sir.

Q You weren't talking about charges there?

A No. He said that I -- he was mentioning something, I believe, about his family. I told him that he had drawn these people into it, meaning that he had drawn them in, not we. We had witnesses in his family. We had a lot of people we had talked to, and that was the meaning for that statement.

Q Let me ask you this: you knew from the fact that you had been in Memphis for a period of time that somebody was aiding, assisting Christopher in his efforts to elude the police up there, did you not?

A At the time that he was first seen, that he was at his mother's house, we felt that, yes.

Q And in fact you believe that the reason Pam and Pete were arrested, were they not, because you felt or somebody felt that they were involved, that he was a fugitive and they knew it and that they were aiding and helping him in avoiding arrest?

A I had nothing to do with the arrest of Pam and Pete Scott.

Q Well, let me ask you this: you are a professional investigator. You have worked in police work for a long period of time. I know you didn't have

anything to do with the arrest of those people, but wasn't it your belief based on information you had at that time that these persons were involved in aiding and abetting him?

A I was informed what they were charged with, yes; they were picked up on those charges.

Q Do you remember Mills making the statement to the fact that there was a young girl all caught up in this thing real tight?

A Yes. He was talking of Norma, I believe.

Q Now, let me ask you this: before you talked to Christopher, had there been any discussion between you and Officer Smith and Officer Young and Officer Boswell about whether or not in fact charges were going to be placed against these people?

A I think that we did talk to Smith briefly. We were very busy that day. I do not recall. I knew they were being held for those charges; I do not recall whether accessory after the fact, aiding and abetting, or what they were.

Q What I am asking, hadn't there been a decision already made that these persons were not going to be jailed before you ever talked to the defendant?

A No, sir, not to my knowledge.

Q When was that decision made?

A-42

A I think that was made after and just prior to the last tape conversation.

Q Prior to the last taped conversation that would have been? That means that it was made then while the tape was off?

A It was made -- yes. When Christopher made the phone call the first indication I got that they were going to be released was when Captain Smith told Christopher to tell his mother to pick them both up, that he was not going to charge them.

Q Okay. You previously testified that, based on your conversations with Norma, that you believe that she was not directly involved in the homicides?

A No, sir, I did not believe she was.

Q Wouldn't you characterize the statement that you made concerning Norma to Christopher during this first statement as somewhat misleading in this regard?

A What statement was that, sir?

Q The statement about the fact that she was tied up in this thing?

A I don't think I made that statement, did I?

Q You were present when it was made.

A I heard Mills state to him that she was tied up in it, meaning what we had found out, her relationship with him, run away from home, and the pickup order we

A-43

had for her from both states. I think she was probably involved with him was the explanation for that.

Q I notice that at one point during your conversation with the defendant -- this is during the first statement; this is after, at the point in the statement where you have pretty much told Christopher, "Look, we don't believe what you are telling us. We know what happened down there and what you are telling us is not consistent with what we know." He made the statement -- I believe you were the person who said this: "How could Charlie shoot himself three times?" It's a fact, is it not, that Ahern was not shot three times?

A No, sir, he was not.

Q Why did you make that statement? Wasn't that somewhat deceptive, to make that statement to the defendant?

A I don't know why I said three times, to tell you the truth.

Q I notice at the bottom of page 16 of the statement that Christopher makes the statement in response to a question from Mills, "I told you that before that you're being accused of both murders."

Christopher's response: "Okay. Then I've got nothing else to say."

But, however, the questioning then continues

for three more pages of transcript. Is that not true?

A Yes, sir.

Q And it's a fact, is it not, that Captain Smith called down and ordered the release of Pam Scott and Pete Scott during the interval of time that the tape was off?

A I don't know when the call was made to release them. All I know is what I heard him tell Christopher.

Q What did he tell Christopher?

A I heard him, "Tell Mary to pick Pam and Pete up."

Q During the time the tape was off, do you remember a discussion about a polygraph?

A I remember vaguely something that Christopher wanted to take a -- he stated he would like to take a polygraph in relation to sexual relations between himself and his daughter.

Q Do you recall him requesting a polygraph generally on the issue of whether he had committed these particular murders?

A I do not recall, sir.

Q To your knowledge, he was not afforded a polygraph in Memphis, was he?

A No, sir.

Q And he was not afforded one at any later time?

A No, sir.

Q You recall a statement Captain Smith made while the tape was off and after Christopher had requested the polygraph that he thought that it may be a good idea in order to clear the thing up and Mills indicating that if a polygraph was necessary, it would be better to do it here where they had a better examiner?

A No, sir, I do not.

Q You don't recall any statement of that nature being made?

A The only conversation I recall about polygraph, Christopher said he would take the polygraph in relation to his relation with his daughter. That is the only polygraph I remember hear him talk about.

Q Now, this is, I would -- let's see. That was in Memphis and it was in August of last year. I would assume Captain Smith's office was air-conditioned, was it not?

A This was in September.

Q I am sorry, September.

A I believe the offices are air-conditioned.

Q You remember if the air conditioning was on that evening?

A I don't recall.

Q What were you wearing? Were you dressed like

A-46

you are today, have on a suit and tie?

A I don't recall whether I did or not, no.

Q It's a fact, is it not, that at the time of the second statement, that Christopher had been seated in this room for about three hours clad in a pair of jeans and tennis shoes; is that not true?

A He was.

Q He didn't have a shirt on?

A No, sir, he did not.

Q And in fact some time prior to the tape going off, you had removed his shoes?

A Yes, sir.

Q So, during the time that the tape was off and during the time of the second statement, he was sitting basically in a pair of jeans?

A Yes, sir.

Q He had no shoes on and no shirt on?

A No, sir.

THE COURT: Mr. Hines, we are going to take a short recess.

(A short recess was taken.)

Q All right. Officer Young, I believe that we were talking a little bit about the physical condition of the defendant at the time the statements were made and established the fact of what he was wearing at the

time the second statement was made, and I believe that you stated in fact after the second statement that he requested a shirt; somebody provided him with a shirt or jacket? Is that --

A Yes, sir.

Q Who did that, Officer Boswell?

A I am pretty sure it was, yes, sir.

Q You don't have any personal knowledge as to whether in fact Pam Scott and Charles Scott or Pete Scott were released that night?

A I can't say for sure. I assume they were.

Q And Norma was not released that particular night, was she? She was held for a period of time in the detention home?

A Yes, sir.

Q To the best of your knowledge, were any charges ever placed against her in connection with this?

A No, sir.

Q She was never charged under Tennessee law for aiding and abetting Christopher in his effort to elude the police up there, to your knowledge?

A No, sir.

Q It's my understanding that after you got down here to Naples you brought these transcripts that had been made of the tapes down to have them signed by the

defendant; is that not true?

A Yes, sir, I did.

Q And he refused to sign them, didn't he?

A Yes, sir.

Q To the best of your knowledge, was the defendant ever placed in contact with any member of the Tennessee bar or any other bar prior to his being questioned by you and Officer Mills and the other officers that night?

A Not to my knowledge, no, sir.

Q And to the best of your knowledge, was there any member of the Tennessee bar present within the homicide section there in the Memphis Police Department that evening?

A There was an attorney there for his brother, I believe.

Q For --

A Pete.

Q For Pete?

A Yes, sir.

Q Was he aware of the fact that Christopher was being questioned?

A I don't know. He knew what we were there for, yes, sir.

Q I want to ask you something about the final

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

statement that Christopher made on the second, on the second taped statement. Now, would you please explain or interpret for me again how you construe that statement, what you feel that he meant by that?

A What part of the statement are you referring to?

Q I am referring specifically to the statement wherein he states that: "The main reason I'm giving this statement is to clear my daughter of everything because she's not guilty of nothing and my family. It's like Captain Smith said awhile ago, he's willing to let my brother and sister go, because they have them charged with accessory after the fact, they are not guilty of it."

Now, would you please tell me again your interpretation of that particular statement?

A I don't know what he meant by Norma, but we clearly told him Norma had not been charged with any crime, and I know he had been told that Pete and Pam were being released.

Q Well, isn't it a fact that these statements that he gave to you were predicated upon his belief that if he gave you a statement which you believed to be true, that you would release these people?

A That is not true, no, sir.

Q That is not the implication of that statement?

A-50

A I don't know what he meant by that, but we did not promise him anything for his statement.

MR. HINES: That is all I have.

REDIRECT EXAMINATION

BY MR. PELLECCHIA:

Q Officer Young, let's first discuss the clothing situation. Sergeant Boswell gave him a jacket, I believe?

A Yes, sir.

Q Was that at his request at some point in time?

A He stated that the cell block where he was staying was cold.

Q Did he ever complain about the conditions of the room?

A No, sir.

Q What was the point in time when he asked for this jacket?

A This was while we was off tape and he was talking about the cell and he was asking about what kind of jail we had in Collier County, and then it was real cold there and he didn't have any clothing and he wanted to call his mother to bring him some clothes. And Sergeant Boswell got him a jacket to take with him until his clothing arrived.

Q Then his complaint was not about the temperature of the room in which he was being questioned, more about

cell block in which he was being held?

A Yes, sir.

Q And he was allowed to make a phone call to his mother to get additional clothing in addition to what Boswell gave him?

A He wanted additional jacket and cigarettes. He had no cigarettes.

Q Did your investigation reveal with whom Christopher was arrested at the time in Memphis?

A Whom he was arrested with?

Q Yes.

A It shows that his sister and brother, Pam and Pete Scott, and Norma Sands.

Q So, he was aware then prior to any questioning that these people had in fact been arrested?

A Yes, he knew that.

Q Prior to your questioning of Christhopher on the afternoon of the 22nd, did you question Norma?

A Yes, sir.

Q Was she a suspect after your questioning of her?

A No, sir.

Q What was her status in the case then?

A She was picked up as a delinquent on a Memphis pickup order for a juvenile and she really had -- I had no appearance at that time. She was being held by

juvenile authorities until they could award her to someone or someone could take custody.

Q Okay, but with reference to the homicide and being accessory after the fact, was she a suspect or a witness?

A A witness, sir.

Q Did you ever tell Christopher that she was a suspect?

A No, sir.

Q In either of the homicides or anything else?

A No, sir.

Q What again is Christopher -- based on your investigation, what is Christopher's relationship to Norma Sands?

A He is her real father.

Q What is Norma Sands' relationship to Bertha Skillin, the deceased?

A She is an adopted daughter.

Q And where did Norma Sands' natural mother reside?

A Memphis, Tennessee.

Q Were you in contact with her?

A Yes.

Q Was she in fact present at the time of her questioning?

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

A With Norma?

Q Yes.

A Yes.

Q At any time with regard to Norma's, I will use the word incarceration in detention facility for several days, did the facts of her relationship with Pat Stock, the fact that her adopted mother was deceased and that her natural father was being held on murder warrant come into play as to length of that detention?

A Yes, there was a hearing, I think, in Memphis courts; I am not sure what day.

Q Did you question the defendant at all after the 22nd?

A No, sir.

Q Do you recall from your investigation how many apparent bullet holes were in the body of George Ahern?

A I was told by the M.E. report there was two, and first examination they thought there might have been three, but there was not.

Q Okay. We get to the phone call and Christopher is on the phone talking to his mother, Mary Still, correct?

A Yes, sir.

Q And you testified previously that he put his

hand over the phone and he asked Captain Smith a question. What was the question?

A Basically, I recall he asked if they were going to hold Pete and Pam.

Q And what did Captain Smith reply?

A I believe he told him to tell Mary to come and pick them and the car up. Somebody asked something about the vehicle, and Captain Smith asked me if I had any reason to check the vehicle out, and I told him no and he --

Q Is that the first mention of Pam and Pete Scott?

A That is the first.

Q And prior to this phone call off the tape the defendant had already made the confession?

A Yes, sir.

Q Who first raised the question of the status of Norma, Pam, and Pete?

A The defendant.

Q And again I ask you did you or anyone else at any time during this entire length of series of statements promise to release these people, to drop charges, to show leniency, to give Christopher leniency, to give benefit, to hold out any hope or reward, to threaten or coerce with regard to his making statements

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

that he made on the night of the 22nd?

A Absolutely not.

Q Neither yourself nor Mills nor McCachren nor Boswell nor Smith?

A Not in my presence, no.

Q And you recall Christopher stating near the almost total end of this second statement when you asked if anyone had accused his daughter of murder, he said, "Yes, her mother," and then you said, "No, I mean the police," and Christopher said, "No, not that I know of, just what I've heard. I heard from my aunt that Walter Crews who is a police officer in Memphis that I grew up with said that the warrant was coming in, that they believed that my daughter had killed Bertha and that I had killed Charlie and that isn't so because my daughter was in school."

A I recall.

Q And his aunt told Christopher?

A That is what he said.

Q About his daughter's difficulty with regard to being possible suspect in the case?

A Yes, sir.

MR. PELLECCHIA: No further questions.

RECROSS EXAMINATION

BY MR. HINES:

A-56

Q Officer Young, after you questioned Norma Sands and Christopher on the day of the 22nd, the period of time that she was incarcerated in the juvenile detention facility there in Tennessee, she was not being held on any particular charge; she was being held basically in order to resolve the question of who was going to take custody of her? Is that correct?

A I believe that was the status.

Q Let me ask you this: prior to the first statement, the first taped statement, you recall any conversation between the defendant and Officer Boswell about Pam and Pete and Norma?

A No, sir, I do not.

Q Was Officer Boswell present at that time?

A Yes, sir.

Q And it's your testimony that the defendant never, never made any statement about counsel prior to the first taped statement?

A Are you asking me if he requested counsel? No, he didn't.

Q Whether he requested counsel or if he asked about whether an attorney was available or anything about an attorney?

A No, sir, he didn't.

Q He never said anything about an attorney

prior to the first taped statement?

A No, sir.

Q And he never said anything about an attorney while he was, while the tape was off?

A No, sir.

MR. HINES: All right. That is all I have, Your Honor.

REDIRECT EXAMINATION

BY MR. PELLECCHIA:

Q Although Christopher never said anything about an attorney, you advised him at least three times of his right to counsel during the interview?

A That I did, yes.

MR. PELLECCHIA: No further questions.

MR. HINES: No recross.

THE COURT: All right. You may step down.

MR. PELLECCHIA: We call Captain Smith.

THE COURT: How many witnesses are you going to call?

MR. PELLECCHIA: Two, Your Honor.

THE COURT: Going to be as long as this one?

MR. PELLECCHIA: No, Your Honor. I can eliminate a lot of details and just go to the issue raised in the motion to suppress rather than laying all the background.

A-58

THE COURT: It's almost 12 o'clock. Let's go ahead and recess until one o'clock at this time and finish up with the motions this afternoon. We stand in recess.

(Court recessed for lunch at 11:50 a.m.)

REPORTER'S NOTE: Please see later transcript/for by another reporter afternoon session. CLK

A-59

STATE OF FLORIDA)
COUNTY OF COLLIER)

I, Corinne L. Keene, RPR, Acting Official Court Reporter for the Circuit Court of the Twentieth Judicial Circuit of the State of Florida, do hereby certify that the foregoing proceedings were had as set forth on page 1 hereof, at the time and place also set out on page 1 hereof; that I was authorized to and did attend said proceedings and report the same in shorthand; and that the foregoing typewritten pages numbered 1 through 8, inclusive, constitute a true and accurate transcript of my shorthand report of the proceedings taken at said time.

IN WITNESS WHEREOF, I have hereunto set my hand, this 14th day of January, 1979.

Corinne L. Keene

Corinne L. Keene, RPR
Acting Official Court Reporter
20th Judicial Circuit of Florida.

A-60

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA. CRIMINAL ACTION

STATE OF FLORIDA,
Plaintiff,
-vs-
WILLIAM D. CHRISTOPHER,
Defendant.

CASE NO. 77-468-CF

RECEIVED
MAY 25 4 12 PM
WILLIAM J. KEITH
CLERK OF COURTS
COLLIER COUNTY, FLORIDA

TRANSCRIPT OF TESTIMONY AND PROCEEDINGS

Before the Honorable Charles T. Carlton, Circuit Judge of said Court, 20th Judicial Circuit of Florida, at a hearing in the above-styled cause on May 19, 1978, commencing at 1:00 p.m., held at the Collier County Courthouse, Naples, Florida.

APPEARANCES:

For the State: DONALD E. PELLECCHIA, ESQUIRE
DELANO J. BROCK, ESQUIRE
ANTHONY P. PIRES, ESQUIRE
Assistant State Attorneys
Collier County Courthouse
Naples, Florida 33942

For the Defendant: ROBERT G. HINES, ESQUIRE
Assistant Public Defender
Collier County Courthouse
Naples, Florida 33942

A-61

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

THE COURT: Be seated, please. Call your next witness, please.

MR. PELLECCHIA: State calls Captain Tom Smith.

THEREUPON,

THOMAS H. SMITH,

a witness, having been first duly sworn, upon his oath, testified as follows:

DIRECT EXAMINATION

BY MR. PELLECCHIA:

Q Would you state your name, please, sir?

A Thomas H. Smith.

Q And what is your occupation?

A I'm a commander of the horicide squad, Memphis Police Department, Memphis, Tennessee.

Q How long have you been so employed?

A I've been in the homicide since 1960 and have been commander since 1973.

Q What rank do you hold with your departrent?

A Captain.

Q And how many men do you have in the homicide division?

A 24 investigators, three assistant commanders, and five typists.

Q Okay, are you the senior officer involved in the Memphis Police Department's involvement in the Chris-

A. 62

topher homicide case?

A Yes.

Q Were you present at the time Christopher was arrested?

A No, sir, I was not on the scene at the time he was arrested.

Q Okay, are you familiar with who he was arrested with?

A Yes, sir, Norma Sands, Pete Scott, and Pam Scott.

Q And what are their relationships?

A I believe they're half brothers of Bill Christopher.

Q Half brother, and Pam is a half sister?

A Half sister.

Q And Norma?

A Norma is his daughter.

Q And when were they arrested in point in time?

A Shortly after midnight on the morning of the 22nd of September.

Q What was Christopher arrested for by your department?

A For murder warrant that we had from Naples, Florida.

Q Okay, and what was Norma Sands arrested for?

A As a runaway and possible witness.

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

Q What was Pete Scott arrested for?

A Mainly for aiding and abetting under our laws, aiding and abetting or harboring a fugitive.

Q And Pam Scott, same thing?

A Yes, sir.

Q And they were all present with the defendant at the time of his arrest?

A Yes, sir.

Q Do you recall the approximate hour of the defendant's arrest in this case?

A I don't recall the exact moment. It was shortly after midnight on the morning of the 22nd, I believe.

Q And subsequent to that time, did you depart from contact Lieutenant Mills and Investigator Young of the Collier County Sheriff's Department?

A Yes, sir, immediately thereafter.

Q Pardon?

A Immediately thereafter.

Q Did you have any warrants outstanding for Pete or Pam Scott?

A No, sir.

Q Okay, do you know why they were arrested?

A Because they were in the car with the defendant, Bill Christopher. And also we had knowledge from our informants and during our investigation that they had know-

ledge that he was in Memphis, Tennessee.

Q Subsequent to Christopher's arrest and prior to the arrival of Lieutenant Mills and Harold Young, did you or anyone in your department interrogate or interview the defendant in this case, William Christopher?

A No, sir.

Q Would you tell me why not?

A Because we were not familiar with the crime scene itself or the area of the investigation. And it is our usual custom in out-of-town cases, we await the arrival of the out-of-town investigators and get the real facts.

Q I presume then sometime on the 22nd, they did in fact arrive?

A Yes, sir.

Q Okay, and at some given point in time, was the defendant in this case brought to your office?

A Yes, sir, he was.

Q Do you recall the approximate time of that?

A About 7:15, 7:20, somewhere around there, approximately.

Q Let me show you what has been marked as State's Exhibit Number 1 for identification and ask you if you can identify it and describe it for me?

A Yes, sir, that is a sketch of the -- of my office

inside the homicide squad. That was drawn by our graphic arts department up there at our request.

Q Okay, I show you State's 2 through 4 for identification. And I ask you please to identify them first starting with Exhibits 4 and 5.

A Exhibit 4 is a shot of -- is a photograph of my office showing my desk setting by the window. Exhibit 5 is showing the little L-shaped part away from my desk.

Q Okay.

A Which would give you an overall view of how large or the size of my office.

Q And is your office in substantially the same condition at the time of these photographs as it was on September 22nd when Christopher was taken to your office?

A Those were exact -- none of the furniture had been moved or anything else at the time these photographs were made. They were the same as when we were talking to Bill Christopher.

MR. PELLECCHIA: State would offer Exhibits 1, 4, and 5 into evidence.

THE COURT: Any objections?

MR. HINES: I'd object in that they were not furnished to us pursuant to our demand for discovery.

MR. PELLECCHIA: Your Honor, I don't have the envelope that they came in, but all photographs were

shown to the defense, to my knowledge, and made available.

MR. HINES: I'm stating that, to the best of my knowledge, I've never seen those photographs.

THE COURT: Of course, these photographs will not be any -- are not being produced to show the guilt or the innocence of the defendant. It goes to whether the confession was freely and voluntarily made. And so the Court will go ahead and admit them. And as far as the trial is concerned, Mr. Hines, you may look at them anytime you so desire. They'll be in the court file.

MR. HINES: Very well.

BY MR. PELLECCHIA:

Q Mr. Thomas, I show you what's been marked as State's 2 and 3, and I notice there are numerous persons in the photograph aside from yourself. And could you tell the Court, please, the purpose of having individuals in a position they are located and --

A Both exhibits show where different people were sitting during the interview with Mr. Christopher.

Q Okay, would you point out to the Court, please, the locations of the substitutes for the people that were there that night?

A All right, I'm, of course, sitting behind my

desk where I was sitting that night. This is Patrolman Larry Hunt is sitting where Investigator Harold Mills -- Harold Young was sitting. This is Sergeant Jim McQuarry who is sitting where Lieutenant Mills was sitting at the time. Lieutenant Don Young, one of my assistant commanders, is sitting in front of Lieutenant McQuarry. And that is where Mr. Christopher was sitting during the interview. Sergeant Boswell is sitting on the couch where he was sitting at the time of the interview.

MR. PELLECCHIA: Offer those photographs in evidence, your Honor.

THE COURT: Any objections?

MR. HINES: Same objections.

THE COURT: It's overruled; they will be admitted.

BY MR. PELLECCHIA:

Q You stated that sometime around 7:15, the defendant was brought up to your office. Who was present in your office at the time the defendant arrived?

A There was Lieutenant Catcheron who is now retired from the Memphis Police Department, Sergeant Boswell from the Memphis Police Department, myself from the Memphis Police Department, Harold Young from Collier County, and Curtis Mills from Collier County -- sorry, Boswell, I left him out. He was also there.

Q Would you relate to the Court, please, Captain

A-68

Smith, the chronology of events which took place upon the defendant's arrival?

A When Mr. Christopher came in, he was introduced to all of us by Curtis, Lieutenant Curtis Mills. And he was advised of his rights as per your rights card by Lieutenant Mills and was set down and was talked to in our presence. And during that time, he did give a taped statement, a statement on tape.

Q Okay, how many times in your presence was he advised of his rights by Investigator Young?

A About three times, three times by Investigator Young. And certainly he was advised by our arresting officer which is a policy of the police department.

Q At the time that he was advised of these various rights, did he ever invoke his right to counsel?

A No, sir, henever -- never at any time did he request an attorney or anyone else.

Q Did he ever invoke his right to remain silent?

A No, sir.

Q Okay, after he was advised of his rights, then I understand that a tape recorder was turned on?

A That's correct.

Q And you testified that he was readvised of his rights?

A On the tape recorder, yes, sir.

Q Did there come a point in time when the tape recorder was turned off?

A Yes, sir.

Q And at whose request was this?

A Mr. Christopher's request.

Q Okay, and what occurred after he requested the tape recorder be turned off?

A Well, it was -- he was wanting to know what -- what Norma was going to be charged with, and a lot of conversation was going on. We were more or less having coffee, cigarettes, taking a break. And continuous talking was going on between Lieutenant Mills and Bill Christopher. And occasionally Bill would ask me for a cigarette; I'd give him a cigarette, give him a cup of coffee, complained of being cold without a jacket in our jail. We assured him we would get him a jacket, so he would not be cold up there any longer. And he again gave the statement of murder - suicide.

Q And this is off the tape -- similar taped statement that he gave on the tape?

A That's correct, it was. And the conversation went along, and then I asked Lieutenant Mills if I might say something to Mr. Christopher, and he said yes. And at that time I told Mr. Christopher that the facts did not sustain the -- the story that he was telling were not

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

not sustained by the facts as we knew them from the investigation, that he undoubtedly had a logical reason for doing what he did, that it might be logical to him. It was -- it might not be logical to me, nor would it be logical to Curtis Mills, but I'm sure it would have been logical to Mr. Christopher. And I also told Bill that he might as well go ahead and tell the truth about it and get everybody in there out of any involvement whatsoever.

Q And then what occurred?

A Then he went back and did orally confess to the murder of the two people here in Naples, Florida.

Q Okay, and subsequent to this -- when you say oral you mean, nontaped --

A Nontaped, yes.

Q -- statement? Okay, after this statement, what then occurred?

A Then Investigator Young asked if he could -- if he would write it down in an oral -- in a statement form. And Bill advised that it would be all right to put it back on the tape, that he didn't write too well. So, therefore, the tape was turned on again. He was again advised of his rights, and he did give a statement on the tape the second time.

Q Okay, at some point in time, did the defendant request to make a phone call?

A Yes, sir, he really did. Just right after the confession of the killing, he requested to call his mother, Mary Steele (phonetic), and permission was granted by me to use my phone in my office which was setting right there on my desk as it shows -- or near my desk in there. And while he was talking to Mary Steele, he asked what was going to happen to Pete and Pam. And I told -- I looked at Lieutenant Mills and asked if he wanted to pursue the prosecution of aiding and abetting, and he said no. And I said well, I don't either. And I told Bill to tell Mary to come on up, pick -- when she brought the clothes and cigarettes, to pick up Pete and Pam and take them home with them.

Q Up to this point, had there been any discussion -- prior to that point, had there been any discussion during these interviews with regard to releasing Pam or Pete or Norma, for that matter?

A No.

Q And this is the first time it came up with which he gave you an oral confession?

A That's correct.

Q And then I take it after the telephone call and the conversations and the coffee, then you went back on the tape, and he repeated some of what he had told you off the record -- off the tape?

A-72

A Yes, sir.

Q Then the interview was concluded at that time?

A That's correct.

Q Was he ever questioned after that?

A Not in my office, no, sir.

Q Captain Smith, did you or any member of your department present during these interviews or Lieutenant Young or -- excuse me, Investigator Young, or Lieutenant Mills ever promise William Christopher anything in return for his statements?

A No, sir.

Q Was he ever threatened?

A No, sir.

Q Was he ever coerced?

A No, sir.

Q Were any benefits for hope or reward ever held out to him in order to induce him to give you a statement?

A No, sir.

Q Okay, did you or any of the other officers ever tell him that you would go easy on Pam or Pete or Norma in order to give -- to get a statement?

A No, sir.

Q Did you or any of the officers present ever tell him that you -- if that -- if he told the truth or gave a statement, that he would be released and returned for

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE
NAPLES, FL 33940

that?

A No, sir.

Q Did anyone, to your knowledge, and recollection of the conversations that took place there that day, imply that that would be the case?

A No, sir.

Q Did any of you offer leniency to Christopher?

A No, sir.

Q In order to have him make a truthful statement?

A No, sir.

Q Okay.

THE COURT: Let me ask a couple of questions here. I just want to summarize, see if I have this correctly. Now, I believe you stated he was advised of his rights three different times; is that correct?

THE WITNESS: That's correct, yes, sir.

THE COURT: And two of the times he indicated that he understood his rights; is that correct?

THE WITNESS: All three times.

THE COURT: All right, but just the two that -- one he said -- you specifically said do you want a lawyer. What was the -- tell me about that; I think it was the second time. Do you recall that?

THE WITNESS: No, sir, I don't think he -- he mentioned anything about a lawyer at any time.

THE COURT: Well, maybe it wasn't brought out in your testimony. It was brought out in the other law enforcement officer's testimony, that one time it was read from a card. And I think there was four questions on that card, and that he asked each -- he went through each and every one of these questions on the card. And each time he responded by indicating that he waived that particular right. And one of the items that he did indicate specifically that he did waive his right to have an attorney; do you recall that?

THE WITNESS: Yes, sir, that was on the second taped statement.

THE COURT: All right, that was on the second time?

THE WITNESS: Second taped statement.

THE COURT: Now, on the other two times, now how did he respond after he was advised of his rights?

THE WITNESS: That he understood each of those rights, that he --

THE COURT: Did he do this by words or acts?

THE WITNESS: Words.

THE COURT: What did he say that you recall?

THE WITNESS: That I have my Miranda card with me, and we asked -- I don't know if it's the same

A-75

as what we have, but it's basically the same thing. If you understand each of these rights I have explained to you, and he said yes, he did.

THE COURT: All right, that's all I need to know then.

THE WITNESS: And then he was asked if he would be willing to make a statement at that time, and he responded he would.

THE COURT: All right, fine, thank you.

BY MR. PELLECCHIA:

Q Captain Young -- excuse me, Captain Smith, do you recall Christopher being asked the question by Sergeant Young at the end of the second taped statement, what is the reason for your giving this statement and Christopher replying the main reason I'm giving this statement is to clear my daughter of everything because she's not guilty of nothing and my family? It's like Captain Smith said awhile ago, he's willing to let my brother and sister go because they have been charged of accessory after the fact?

A Yes, sir.

Q And he said this subsequent to your telling him while he was on the phone, that they were going to be released?

A That's correct.

MR. PELLECCHIA: Okay, I have no further questions.

CROSS-EXAMINATION

BY MR. HINES:

Q Captain Smith, how long did you talk to the defendant prior to the tape being turned on?

A The tape being turned on the first time?

Q The first time.

A Couldn't have been more than 10 minutes.

Q And everyone that you mentioned was present at that time, lieutenant --

A Catcheron.

Q -- was there?

A Yes, sir.

Q And Sergeant Boswell was there?

A Yes, sir.

Q You were there?

A Yes, sir.

Q Officer Mills and Young were there?

A Yes, sir.

Q And what was the substance of that conversation? Were you talking about the case, or were you talking about things aside from the case?

A We were not talking about anything about the case. It was Lieutenant Mills advising him that he had

been arrested; there wasn't -- what he was arrested for.

Q All right.

A An introduction of all parties concerned in the room.

Q Uh huh, and then after this introduction of all the persons in the room, the tape was turned on immediately thereafter?

A Well, I can't say immediately because we probably offered him a cup of coffee, a cigarette before we got started and so forth. And then the tape was turned on about 7:30, 7:35.

Q During this period of time, prior to the time the tape being turned on and for the first time that evening, did the defendant ever -- do you recall any conversation or any statements with -- from the defendant about the fact that he wanted to speak to an attorney?

A No, sir.

Q To your knowledge, had your agency, that is, the Memphis Police Department, placed the defendant in contact with any member of the Tennessee Bar, public defender, or any other private attorney?

A To my knowledge, no, sir.

Q Specifically, again now concentrating on the time period prior to the first statement, the first transcribed statement, do you recall a conversation that was

initiated by Officer Boswell concerning possible charges of aiding and abetting against Pam and Pete? This is befor the first statement.

A That was before Bill was brought in. They could have certainly been charged under our Tennessee statute of aiding and abetting and harboring a fugitive of justice.

Q That was discussed before Bill was brought in there?

A Yes, sir.

Q And who was discussing that, you and Officer Boswell, and Lieutenant Catcheron?

A Catcheron.

Q Catcheron?

A That's hard to say. If I hadn't worked with him so many years, I couldn't say it myself.

Q So, you had information based on what you had learned from your efforts to apprehend this individual that these persons who were arrested with him probably had been involved in the efforts to hide him and secrete him from the police; is that not true?

A That was the information I had.

Q Along with his mother?

A That's correct.

Q Mary Steele, Mary Steele was never arrested,

A-79

was she?

A No, sir, she wasn't.

Q And at some point there during that evening, there was a decision made that these persons would not be prosecuted; is that not correct?

A That's correct.

Q And in fact, you permitted the defendant to make a phone call and tell his mother that he could come and pick these people up?

A No, sir.

Q You were authorizing them?

A No, sir, I allowed him to make a phone call to his mother to get a jacket and some cigarettes to bring to him.

Q Oh, so how -- that was -- that discussion of their release was not in a phone call then? Did you not authorize him to tell her to come and get these people?

A I did, but that was not the purpose of the phone call, Mr. Hines.

Q Oh, okay, this was while the phone call was being made?

A That is correct.

Q That he asked you about the release of these people?

A That's correct, he asked me what was going to

happen to Pete and Pam.

Q Uh huh.

A And I asked Lieutenant Mills if he was wanting to push prosecution on that, and he said no. I said, "Well, I don't want to either," and I told Bill, "Tell your mother when she brings your coat and cigarettes, that she can take Pete and Pam back home with her."

Q Okay. Now, all right, let's go back then for a minute to the conversation that you and the lieutenant and Sergeant Boswell had about Pam and Pete. Was it your view at that time that these persons were -- that you were not going to press charges on these persons because of the fact that they were related to the defendant and that it would be difficult to get an indictment or get a prosecution or get a conviction?

A It would be difficult under Tennessee law to prosecute anyone's family for aiding and abetting of the escape. However, we have tried them in the State of Tennessee for that.

Q Uh huh.

A Especially when they are caught in the automobile with him.

Q Uh huh. Well, let me ask you this, had you and Officer Boswell and the other Lieutenant Catcheron decided, based on the information you had prior to questioning

Christopher, that these persons would not be charged?

A No, sir, we did not make up our mind until the -- my mind was not made up on the prosecution until I asked Lieutenant Mills if they were interested in pursuing the prosecution.

Q Lieutenant Mills is -- was -- is a law enforcement officer with the State of Florida though. He doesn't have any control over whether persons are prosecuted under Tennessee law; is that not true?

A That is true, but also we are cooperating agencies.

Q You were the one who had the responsibility for making that decision --

A That's correct.

Q -- did you not? During the time that the tape was turned off, between the first and second statements, do you recall any conversation about the -- a polygraph examination of the defendant?

A Not specifically, Mr. Hines. Like I said, I -- there again, during that time that that tape was off, I may have gotten up a couple of times, got Bill a cup of coffee, got me a cup of coffee, and some of the others, and got right back in the room. I was not out of the room but at very short intervals, because we have a coffee room right there in our squad room and everything

else.

Q Well, do you ever remember that being mentioned by Officer Mills or Officer Young or anyone else?

A Not specifically, it -- something comes in my mind that Bill was wanting to take a polygraph test for some reason or the other; really I don't know what.

Q Do you have a polygraph examiner there in Memphis homicide?

A No, sir, not in homicide; we do in the Memphis Police Department.

Q How long has he been with your agency?

A Well, Tom Harlan has been with us 20 some odd years. But as a polygraph examiner, I wouldn't know. I'd say 10, maybe 11 years.

Q Okay. Now, prior to the tape being turned off, this is during the first statement, do you recall any conversation between Officer Mills and Officer Young about the people that were arrested with Christopher, Norma and Pete and Pam, about possible prosecution or what was going to be done with them, about whether they were involved or not?

A During the first --

Q Right.

A -- taped statement? No, sir, I don't recall offhand.

A-83

Q You don't recall any such conversation?

A No, sir, not on the tape. There may have been; I have not --

Q You just don't recall?

A I don't recall.

Q You were there all this period of time that this was going on though?

A Yes, sir, I was. Yeah, Iwas in my office, like I said, with the exception of a few times to go out and get a cup of coffee.

Q Okay, this interview, we've seen pictures that show that this interview took place in your office within the Memphis Police Department?

A That's correct.

Q And you were present, and you were there prior to the first statement being made? And you were there during the time the tape was off?

A Yes.

Q You were there when the second statement was made?

A Yes, sir.

Q And you --

A And I had been there all day long because we were working about eight homicides at that particular time, and we had everybody busy. And I had been there all day

long.

Q When was Christopher -- now, I understand that during most of this period of time, that Christopher was shirtless; is that not correct?

A That's correct.

Q And also it's my understanding that sometime about towards the end of the first taped statement, that Officer Young and Officer Mills asked Christopher for his shoes; do you recall that?

A No, sir, I don't. But like I said, it may have been when I got out and got me a cup of coffee; little things happen when you're out sometimes.

Q Do you remember him being without shoes when he was -- during this period of time when you were off tape, that's barefoot during that period of time?

A No, sir, he was sitting across the desk from me, and I could not see his feet.

Q Did you -- who did you assign to take him back to where he was being held after the interview occurred?

A That was Sergeant Boswell.

Q Do you remember seeing him getting up to leave? Do you remember if he had shoes on at that time?

A No, sir, I didn't pay any attention.

Q I understand that at some point he requested some kind of shirt or jacket. Do you know when that was

A-85

provided for him?

A I don't know the exact time, but -- I really don't know exactly when, because he called his mother on the phone and requested a jacket and cigarettes.

Q Okay. Now, this is during the period of time when the tape was turned off?

A That's correct.

Q All right. Well, did he get this jacket; was this jacket brought to him prior to the time that the second statement was made?

A No, sir, it was not as cold in my office as it was up in that jail cell. They keep the jail up there at a constant temperature, and my office is flexible where you can control the temperature. We keep it comfortable up there.

Q Again, to the best of your recollection, during the first taped statement when the wrong statement that he originally made to you where he explained the deaths as a murder-suicide that he was a witness to, do you recall him expressing concern about what was going to become of the girl, his natural daughter, Norma Sands?

A He was concerned over that, yes, sir. In fact, that -- I think that concerned him more than anything else.

Q Uh huh, and was -- to the best of your recollection, was he ever advised by Officer Young or Officer Mills

A-86

or any member of your department that she would not be prosecuted for these homicides?

A No, sir.

Q He was never told that?

A To my knowledge, he wasn't.

Q Was the possible prosecution of her as -- for either aiding and abetting him under Tennessee law or possible prosecution for the substantive offenses here in Florida, was that ever discussed with you at any time?

A May have been prior to sergeant -- Lieutenant Mills talking to Norma that afternoon.

Q Uh huh, prior to or after he had talked to her?

A Prior to, they -- I believe they felt that she was a suspect prior to their interview with her in our juvenile court where she had been picked up as a runaway. And then after they had talked to her, then I felt that she was more or less a witness. Then I believe that Bill was even informed of that at some point along the line.

Q All right. So, it was your understanding, based on what you had learned from talking to Officer Young and Mills prior to questioning Christopher, that the probability was that she was simply a witness who had been removed from the jurisdiction -- now, I'm talking about Florida now, by Christopher, and that she was not directly involved in the homicides or what were

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

believed to be homicides?

A That was basically my understanding. However, I'm -- again, Mr. Hines, you know, I was not in on the crime scene down here nor the investigation. It's mighty hard to interject yourself in someone else's investigation, especially when I'm working seven or eight more murders at the same time.

Q Let me ask you this, prior to -- prior to the phone call that the defendant was allowed to make, during the course of which he asked you if he could -- if he could advise his mother to come get Pete and Pam, was there any discussion about them among people in that room prior to that phone call being made after he had gone off tape?

A I don't recall it, sir.

Q All right, the first statement --

A His exact words to me while he was on the phone, he said, "What is going to happen to Pete and Pam?" I'm sure that his mother must have asked him; I don't know because -- I don't know, because he was on there. But when he took his head away from the phone and put his hand on the top of the phone and asked me what was going to happen to Pete and Pam, and that's when the conversation came up between myself and Lieutenant Mills about the --

Q Okay, prior to that phone call being made, you

and Officer Mills and Officer Young had not discussed what was to be done with these people with regard to whether they were going to be prosecuted under the Tennessee aiding and abetting statute?

A No, sir.

Q How long after the tape was turned off was this phone call made; do you recall?

A Oh, it had to have been an hour, an hour and 15 minutes after the tape was turned off, I believe.

Q All right, and in the context of the various statements that he made off tape, when was it made? In other words, I think you indicated that originally he -- he reiterated the same story that he had originally told you or the same statement?

A True.

Q He essentially said -- said it all again?

A Murder-suicide.

Q Murder-suicide, and then there was some discussion, and you stated that you -- you indicated how you approached him at that time?

A That's correct.

Q And then he admitted or made another statement implicating himself in those homicides?

A That's correct.

Q Now, when was the phone call made in the context

of all of that? Was that after he had made the second statement?

A After he had made the second statement off tape.

Q Off tape he got the phone call?

A That's correct.

Q The last lines of the first statement, the transcription I have, Christopher says, "Can I ask one question not on tape?"

Mills states, "You want it turned off?"

Christopher, "Yes."

Do you remember what that question was?

A I believe it was what's going to happen to Norma.

Q What's going to happen to Norma. And what was he advised as to what was going to happen to Norma?

A Hum, I believe that Lieutenant Mills advised him that -- you know, I'm not quite sure of what it was he was advised -- he advised him of, but that Norma was being held, in so many words. She was being held as a runaway in our court up there, that he did not know what was going to happen to her, whether she would be returned to the State of Florida or would remain in Memphis with her mother or what. But that was the substance of the statement.

Q That was the substance of the statement. You don't recall by per chance that Mills advised the defen-

dant that Norma would be released and not prosecuted for any crime if he would go ahead and give him a truthful statement as to what happened here in Naples?

A No, sir, he did not make that statement.

Q Did you ever hear anyone make that statement?

A No, sir.

Q Based on your conversations with Officer Mills and Officer Young, you didn't believe what the defendant was saying during the first statement, did you?

A No, sir, but I did not interject myself into their questioning during that first statement.

Q That's not what I'm asking you. I said, based on your knowledge at the time, you didn't believe that he was telling the truth, did you?

A No, sir.

Q He was lying, wasn't he? That was your belief at the time?

A That was my belief.

Q All right, you're a professional policeman. You've been involved in homicide investigations for a long time, and these other officers have too. And I would assume that one of the things that you were attempting to do that evening was to get the defendant to make a statement that you believe was a reflection of what happened down here, wasn't it?

A That is usually the basis for our interrogations.

Q And you're satisfied that the second statement he gave after the tape was turned back on is an accurate reflection of what happened based on your knowledge of the case?

A Yes, sir.

Q And I understand you don't have any personal knowledge, but based on what you have been told by other persons?

A What I have been told, yes.

MR. HINES: All right, that's all I have.

REDIRECT EXAMINATION

BY MR. PELLECCHIA:

Q Captain Smith, did you get together with Officer Boswell and Lieutenant Catcheron prior to Mr. Christopher coming up there and devise some plan whereby you would retain Pam and Pete in custody, hint on that when Christopher got there to kind of keep the action over his head, so to speak, so that he would make this statement?

A No, sir.

Q Did you do that with Lieutenant Mills or Harold Young?

A No, sir.

Q Did any of the officers do that in your presence at any time?

A-92

A No, sir.

Q Did anyone ever promise Christopher anything to get him to make his statement?

A No, sir.

Q Then you were basically an observer?

A That is correct.

Q You weren't the questioner, so to speak?

A No, sir.

Q Had this been your homicide and you were at the scene?

A That's correct.

Q And there was no threats?

A No, sir.

Q No coercion?

A None.

Q No inducements for hope, reward, benefit, leniency of any kind made by anybody during those statements?

A No.

Q And the only time that you spoke with regard to the release, was when he made an inquiry of you and then you questioned Mills while he was on the telephone?

A That is correct.

Q And that occurred after he had already given a confession off tape?

A That is correct.

A-93

MR. PELLECCHIA: No further questions.

MR. HINES: No recross.

THE COURT: All right, sir, you may step down.

THE WITNESS: Thank you, your Honor.

THE COURT: Call your next witness, please.

MR. PELLECCHIA: Call Lieutenant Mills.

THEREUPON,

CURTIS MILLS,

a witness, having been first duly sworn, upon his oath, testified as follows:

DIRECT EXAMINATION

BY MR. PELLECCHIA:

Q Would you state your name, please, sir?

A Curtis Mills.

Q And, Mr. Mills, are you employed by the Collier County Sheriff's Department?

A Yes, sir.

Q Were you so employed on September 22nd, 1977?

A Yes, sir.

Q On that date, did you have occasion to go to Memphis, Tennessee, with regard to the investigation into the deaths of George Ahern and Bertha Skillin?

A Yes, sir.

Q On that date, did you have occasion to come into contact with the defendant in this case, William

A-94

Christopher?

A Yes, sir.

Q And where did this contact take place?

A The Memphis Police Department.

Q Prior to -- about what time was this contact?

A I wrote the time down. I first came in contact with him about 7:30 in the evening.

Q Prior to your coming into contact with the defendant, did you come in contact with a Norma Sands?

A Yes, sir, I did.

Q And did your investigation reveal what the relationship was of William Christopher to Norma Sands?

A Yes.

Q And what was that relationship?

A William Christopher is Norma's father.

Q And where did you come in contact with Norma Sands?

A She was in the juvenile detention holding cell in Memphis.

Q Under what charge?

A Runaway.

Q At that time -- point in time in your investigation, had you determined whether or not Norma Sands was a suspect in the homicide in Collier County?

A We determined that she was not a suspect.

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

Q And what was her status after you interviewed her, in your mind?

A She was considered a witness in the case.

Q Let's go back. Then you were, I believe, up in Captain Smith's office?

A Yes, sir.

Q At Memphis Homicide and Police Department on the 22nd?

A Yes, sir.

Q And you came in contact with the defendant. Okay, what initially occurred when you came into contact with the defendant?

A I was in the room when some of the Memphis officers brought him in. They went down to the jail area and brought him up. I introduced myself to him, showed him my identification.

Q Okay, then what occurred?

A We set down in Captain Smith's office. Officer Young read him his rights from the Miranda card. We talked about running a tape recorder, and we turned the tape recorder on. Then I think he read him his rights again after the tape recorder was turned on.

Q Okay, at the time Officer Young first read him his rights, that was off the tape recorder?

A Yes, sir, when we first got in the room there

together.

Q Was the defendant coherent?

A Yes, sir.

Q Did he appear to be under the influence of alcohol or any intoxicating beverages?

A No, sir.

Q Did he seem to understand --

A Yes, sir, he did.

Q -- anything presented to him at that time?

A Yes, sir, he seemed to me.

Q Did he respond to the questions posed by Young at the end of the Miranda card to the effect that having these rights in mind, do you wish to talk to us now?

A Yes, sir, he responded.

Q Did he ever invoke his right to remain silent?

A No, sir.

Q After this wish to respond, did he ever invoke his right to counsel?

A He said he understood. He didn't express a desire to have one.

Q In other words, he was read the standard card?

A Yes, sir.

Q And advised that he understood those rights?

A Yes.

Q Okay, then I believe you indicated that the tape

recording was turned on, and this process was repeated by Investigator Young?

A Yes.

Q Okay, would you give the Court, please, the gist of this tape-recorded statement that Christopher gave after the second advising of his rights?

A We talked for approximately an hour and 13 minutes I think it was, something like that. We talked to him about the events that took place while he was in Naples, when he left Naples, went back to Memphis, and so forth.

Q And did he at that point in time inform you that he basically was a witness to a suicide-murder here in Naples?

A Yes, sir.

Q And that's the gist of his statement?

A Yes, sir.

Q The first taped statement? Do you recall in that statement your saying to Christopher, "Now, I'm not going to lie to you." I'm reading from Page 16. "You say what you want to, but the facts are the facts; they speak for themselves. You can tell it any way you want to, or I can tell them. But fact is fact, and we can't change it. This is bad; this is heavy. But still it happened, can't change it. We're not going to change it; we're going to leave it just like it is. There's a

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE
NAPLES, FL 33963

young girl all caught up in this thing, real tight." Do you remember that?

A Yes.

Q Do you remember Christopher's responses to the effect that she never had anything to do with this right after that statement?

A Yes, sir.

Q And you recall something to the effect that Harold Young said, "Got a lot of people caught up in this"?

A Yes, sir.

Q That Christopher had a lot of people caught up in this?

A Yes.

Q At that point in time, what was your understanding of what happened at the time of Christopher's arrest; who was there?

A It was my understanding that there was a half brother, half sister, and Norma was with him at the time that he was arrested.

Q And do you recall stating to Christopher, "Yeah, well I'll tell ya, you got them involved after you got up here. Now, as far as the girl goes, I don't really want to drag her into this thing. And if she's not involved in it, she definitely won't be charged. However, that don't keep her out of the situation. Now, she's

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE
NAPLES, FL 33940

your daughter." Do you recall making that statement?

A Yes.

Q Okay, and would you explain that statement to the Judge, please?

A When he spoke to her, she didn't have anything to do with it, that I wanted to explain to him the fact that she didn't have anything to do with the homicide don't keep her from being involved in the total situation. Still she's a witness, that she's going to have to be involved in this thing through on out.

Q Okay, did there come a point in time of this first taped statement when a request was made to turn off the tape recorder?

A Yes, sir.

Q And who made the request?

A Christopher did.

Q And was the tape recorder turned off by yourself?

A Yes, sir.

Q Okay, and what occurred right after that?

A He asked us, he said, "Well, now what's going to happen to Norma" and his half sister, Pam.

Q Okay, and who responded to that question or those questions?

A I asked him the question, I said, "As far as

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE
NAPLES FL 33940

Pete and Pam goes, I don't know. These things happen in Tennessee."

Q Okay, what did you say about Norma?

A I said, "But Norma is being charged as a runaway, and she may be returned to Florida under those charges."

Q At this point in time, had you discussed with Captain Smith or any of the officers, Memphis Police Department, that were present during this interview, as to the disposition of Pam and Pete as to whether or not they would be charged, released, or whatever?

A We had been told that they were arrested at the same time he was. We -- we hadn't discussed what the disposition of that case was or would possibly be.

Q Okay, then what occurred after the discussion about Norma, Pam and Pete?

A He reassured me again that Norma had nothing to do with this situation, and that he had taken her to school that morning and dropped her off. And she wasn't there; she didn't have anything to do with it. And then he went through basically the same statement he had given me earlier about how there was a suicide-homicide situation.

Q Okay, at some point in time while this tape recorder is turned off, did you indicate to him in some way that you had facts indicating that it was different

than he was telling?

A Yes, sir, after he told -- gave me this statement through again, I told him that what he was telling me didn't match up with the facts in the case, and that I didn't really believe what he was telling me, that I had every reason to believe that it was different.

Q Okay, up to this point in time, had Captain Smith done any of the interrogating?

A No, sir, he hadn't said anything.

Q Did Captain Smith, after you made that statement, make any sort of a statement to Christopher?

A He talked to him briefly, just told him that what had happened in killing these people at that time might have seemed logical to him, but even though that reason wouldn't be a logical reason to himself or to me or to anyone else in the room, but at that time it probably seemed logical to him.

Q Okay, and what occurred after that?

A Bill didn't say anything right away. He just kind of remained silent there for a few minutes, and then he started talking about when Norma was born.

Q That would have been 15 years ago?

A Yes, sir, he went back telling me that when she was born, he was in the penitentiary and that she was given away without his knowledge. He didn't know anything

about it until he got out of the penitentiary, that he couldn't find her, that nobody would help him find her.

Q Okay, were you questioning him about these points?

A No, sir, he told me about the events that happened throughout this 15 year period and led up to right up until when he met her a couple of years before that and how he went to Florida because of a -- he wanted to be with her, and he had heard about George Ahern pulling these things on her, looking at her undercover and so forth. And after he got down here, this thing happened. He killed both of them.

Q And he admitted that to you off the statement?

A Yes, sir.

Q And so it was a rather lengthy statement he made, I take it, covering a span of some 15 years?

A Yes.

Q And his relationship with the different parties in this particular case?

A Yes.

Q The witnesses? Okay, then what occurred subsequent to him making these admissions to you?

A I talked to him a few minutes. Then I asked him about Mrs. Ahern, how it happened that she got killed. And he explained to me why he killed her. And so then we

filled in some of the details on there, talked with him about some of the details of the thing. Then we kind of took a break. We got a cup of coffee. The ones that smoked, smoked cigarettes. Of course, anyone that wanted to, smoked during the whole time during that conversation, but Bill asked could he make a telephone call.

Q And was he permitted to do so?

A Yes, sir, Captain Smith provided him with one of the phones there in their office. He said he wanted to call his mother.

Q Do you know -- did he indicate his purpose for wanting to call his mother?

A I didn't really understand exactly why. I mean, he didn't tell me exactly why he wanted to call; he just wanted to call her.

Q What occurred while he was on the telephone?

A While he was talking on the phone, he put his hand over the phone. He turned to Captain Smith, and he says, "What about Pam and Pete?" He says, "What can I tell her about them?"

So, Captain Smith looked over to us, and he says, "Do you guys want to push this thing against them?" He says, "Do you want to go to trial on their charges?"

And we say, "No, we really have no reason to; we have no reason to do that."

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

So, he turns back to Bill. And he said, "Well, why don't you just tell her when she comes down, to bring your clothes. She can just pick them up; we'll go ahead and release them."

Q Prior to this time, had any indications been made or any statements been made to the defendant, Christopher, that Pam, Pete, or Norma would be released?

A No, sir.

Q And this is subsequent to his having given you a long narrative statement ending in his admission that he killed George Ahern and Bertha Skillin?

A Yes, sir.

Q Okay, and then what occurred after the telephone conversation?

A We set back down, talked for a few minutes there. And Investigator Young asked Bill if he would write this statement out for us. And he says, "Well," he says, "I don't want to write it." He says, "Why don't we just turn the tape back on and tape it."

Q Okay, and was that in fact done?

A Yes, sir, it was.

Q And was he advised of his rights again a third time?

A Yes, sir.

Q On that tape?

A Investigator Young advised him of his rights when he started it on the tape.

Q Did he indicate that he understood his rights?

A Yes, sir.

Q Did he express a desire for an attorney?

A No, sir, he didn't.

Q Did he express a desire to remain silent?

A No, sir.

Q Okay, Lieutenant Mills, did you at any time, at any point in time, promise the defendant anything in order to get him to make statements?

A No, sir.

Q Did you hold out any hope of reward?

A No, sir.

Q Did you threaten him?

A No, sir.

Q Did you coerce him?

A No, sir.

Q Did you ever indicate to him that you would be lenient toward Pam, Pete, and/or Norma or himself in order to get these statements?

A No, sir.

Q Did anyone in your presence do so?

A No, sir.

Q Did you ever have an occasion prior to meeting

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

Christopher and being with Captain Smith or some of the Memphis investigators that were in Captain Smith's office, to kind of sit down with them and devise a scheme that you would all detain Pete, Pam and Norma in custody, let the defendant know that in the hopes that this might coerce him, so to speak, or induce him to give you statements, hang it over his head, so to speak?

A No, sir.

Q That never occurred?

A No, sir.

Q And these statements were freely and voluntarily given?

A Yes, sir.

Q And he even indicated that on the second statement at the end of that statement, did he not?

A Yes, sir, he did.

MR. PELLECCHIA: No further questions.

CROSS-EXAMINATION

BY MR. HINES:

Q Officer Mills, when you --you've had a lot of experience as a police officer, and you've had a lot of experience investigating homicides. You've had a lot of experience questioning people; I know that from my own personal experience. When you -- prior to talking to Christopher, did you and Young decide on any particular

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

approach on how to approach him in order to find out or get a statement from him about what happened here in Naples?

A We just --

Q In other words, like sometimes, you know, there's this thing you use, the one guy plays heavy, and one guy plays the good guy. And there's that approach, and there's all kinds of approaches. But was there any discussions about you and he about how to approach this particular man about getting a statement from him?

A There was no roles played, no, sir.

Q You had talked to Norma Sands that afternoon, had you not?

A Yes, sir.

Q Based on her statements to you and the other information you had, you felt after that conversation, did you not, that she was not a participant in these homicides?

A That's true, yes.

Q You also became aware of the fact that there was, at least according to Norma, that the relationship between her and Christopher was something other than strictly a father-daughter relationship, was it not?

A Had picked up on that from several sources.

Q And did Norma confirm this?

A Yes.

Q And you were aware of this when you went in there to talk to Christopher?

A Yes, sir.

Q Now, before you had gone to -- well, strike that.

You were involved in the investigation of these homicides or what you believe to be homicides from the -- from day one, so to speak, were you not? You were there at the scene when the bodies were found?

A Yes, sir.

Q And you had all the information that your investigation here had developed about those murders, what you believed to be murders, the autopsy results, how many times these persons were shot, the physical evidence? You knew all of that when you went to Memphis, did you not?

A We had a preliminary report from the autopsy. We didn't have the doctor's finished report from the autopsy report. But we had talked with him in person. We got a preliminary report from him.

Q Well, based on the information you had prior to going to Memphis and based on your experience as an investigator with this department, you believed these deaths to be homicides, did you not?

A-109

A Yes, sir.

Q You did not feel this was a murder-suicide situation, did you?

A No, sir.

Q When Christopher gave you this first statement consisting of 19 pages, you did not believe it to be a truthful statement?

A No, sir, I didn't.

Q And subsequently, he gave another statement which you feel is a truthful statement as to what happened there, is it not?

A I believe it's substantially the truth, yes.

Q I believe that the second statement he made is substantially accurate based on your knowledge of the case?

A Yes, sir.

Q And the physical evidence and so forth?

A Yes, sir, I do.

Q I notice looking at the statement, that there's a substantial portion of it. I'll show it to you if you want me to, but the last -- about the last six pages of the statement is basically you make a -- you make an accusation against Christopher. You say we're accusing you of these murders, and then you begin to talk about the fact that you know the facts which you do. And you

don't feel that what he's telling you is accurate based on the facts as you know them to be, right?

A Yes, sir, I'll -- in response to this question, I answered his question that he was being accused of these murders.

Q Okay. So, at that time you were attempting to extracate a statement from him that would be consistent with the facts, were you not?

A I wanted to explain to him why I didn't feel what he was telling me at that time to be the truth.

Q Hoping that he would then tell you what you believed to be the truth, the second statement?

A I felt that we should know exactly what happened.

Q Okay, this would have been, in essence, a type of questioning technique, hoping that he would then come around and tell you what -- what really happened?

A I don't know if you call it a technique; it's just part of our conversation.

Q Okay, I noticed that at one point in the statement towards the end there, I think it's about, oh, three pages from the end, that the defendant makes -- says that he doesn't want to say anything else. But you went on and questioned him after that, did you not?

A I would have to see that to know what portion

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIN COUNTY COURTHOUSE

you're talking about.

Q Bottom of Page 16there.

A Yes, sir, I recall this. If you listen to the tape on this, you can tell that when he said this, he just kept on talking.

Q Okay.

A It was no break in his conversation or anything, he -- he -- he just made one statement right after this. He said that I have nothing else to say, and he just kept right on talking.

Q He went right on talking after Young asked him another question?

A It doesn't show on the transcript, but if you listen to the tape, there was actually some comments by him between the time -- while Young was making that statement. They were actually talking over each other; he kept right on talking.

Q This statement, the first statement, there's several references here in this statement to the family of the defendant, to Norma. Don touched on some of them during the -- during his questioning of you, and you would -- you would acknowledge, would you not, that this was -- that the fact that his family was in custody and was being held on possible aiding and abetting charges was involved in this first statement, was it not? It was

A-112

discussed?

A Not at great length. I think I explained to him that -- well, it was after the tape was turned off, I explained to him that we had nothing to do with that; that was a Memphis charge. During that first statement, I don't recall talking to him about his family other than the fact that Norma was caught up in this situation.

Q All right, do you recall the defendant requesting that he be given a polygraph examination concerning whether he had in fact committed these homicides as you had contended that they are homicides during the time that the tape was turned off?

A I don't recall him asking for a polygraph on the homicides at all. He mentioned the fact that someone had said that he was having sex with Norma and that he would take a polygraph regarding that point. I don't recall him mentioning a polygraph about Norma Sands.

Q All right, how long did the questioning of the defendant -- how long were you in the room with the defendant prior to the tape being turned on initially?

A Possibly five minutes, no more.

Q And this time period mainly consisted of an introduction of all the persons present to the defendant, right?

A Yes, sir.

Q And there was no other conversation to speak of?

A Nothing that -- you know, we just told him we were from Naples. And we were investigating these homicides, and we wanted to talk with him.

Q Did Officer Boswell have any conversation with the defendant at that time?

A No, sir, not that I remember.

Q Did -- to the best of your recollection, do you ever remember him requesting the presence of an attorney at that time or at any other time?

A Never, no, sir.

Q To your -- the best of your knowledge, was there an attorney there in the building who was aware of the fact that he was being questioned?

A I don't know.

Q Let me ask you this, the tape, what the tape reflects is that -- that at least in terms of the first -- the first Miranda warning that was given to him, and I'm quoting here from the very first paragraph of the first taped statement, it's the very last line. It says, "You can decide at any time to exercise these rights and not answer any questions or make any statements. Do you understand each of these rights as I explained them to you?"

A-114

Christopher's response, "Yes."

My question to you is, "Did you ever say to the defendant, will you acknowledge or do you state affirmatively that you waive your right to a counsel and that you waive your right to remain silent" and so forth? Did he ever make an affirmative waiver of those rights in his own -- I mean, not in response to a question by you, but him actually saying yes, I waive my right to an attorney, I waive my right to remain silent, and so forth? Did he do that prior to going on tape or at any other time?

A I don't remember him voluntarily saying anything like this. He answered both times before he went on tape that he understood it.

Q Okay, that he understood the rights, but I'm asking you, to the best of your knowledge, did he ever make an affirmative statement, "Yes, I am waiving my right to an attorney. I am waiving my right to remain silent"? I am -- in other words, did he ever make those statements affirmatively from his own lips to you?

A I don't recall.

Q Let me ask you one other thing. To your knowledg was the defendant ever given an opportunity to consult a member of the Tennessee Bar prior to your questioning, let's say, earlier in the day of the 22nd before you brough

A-115

him up to Captain Smith's office; do you know?

A I don't know if he was put in contact with one or not.

MR. HINES: All right, that's all I have.

REDIRECT EXAMINATION

BY MR. PELLECCHIA:

Q Investigator Mills, again I ask you, did you or any of the other officers present ever offer Mr. Christopher about Pam, Pete, or Norma, or anything to the effect to get him -- to induce him to make these statements?

A No, sir.

Q Do you recall Christopher stating at the very end of the second statement, Investigator Young had asked him whether or not anyone had accused his daughter of murder, and he said, "Yes, his mother or her mother, her natural mother." And then Young said, "No, I mean, police officers"?

A Yes, I remember that.

Q Do you recall Christopher then said, "No, not what I know of, just what I have heard. I heard from my aunt that Walter" -- we now know his name is Cruz, who was a police officer that I -- "that said the warrant was coming in, and that he believed that my daughter had killed Bertha, and that I had killed Charlie. But it isn't so,

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

because my daughter is in school." Do you recall him sayin that?

A Yes, I did.

Q So, he heard this from his aunt about any problems other than being a runaway that Norma might have?

A I don't understand what you are saying.

Q So, he says in here that his aunt told him that his warrant was coming down about his daughter?

A Yes.

Q That the daughter had killed Bertha?

A Yes.

Q You people had never told him that at any point in time?

A Never told him that.

Q So, his aunt did?

A His aunt did apparently.

Q She wasn't there that night that he made these statements?

A No.

Q He must have heard that?

A Prior to his arrest.

MR. PELLECCHIA: No other questions.

MR. HINES: No recross.

THE COURT: You may step down. Call your next witness, please.

A-117

(The witness was excused.)

MR. PELLECCHIA: State has no further witnesses at this time.

THE COURT: Mr. Hines, do you have testimony?

MR. HINES: Your Honor, I -- prior to making a decision about that, I'd like to get a ruling from the Court on a point of law.

Your Honor, it would be my contention, based on the cases of Simmons versus the United States, 390 U.S. 377 and the Florida case of State versus Lines, 293 Southern 2nd 391, that should the defendant choose to testify at this time concerning voluntariness of the confession and the circumstances surrounding the confession in Memphis, these statements could not be later used against him at trial if an objection to those statements was raised. And I'd like to get the Court's -- a ruling from the Court on that point.

THE COURT: All right, what say the --

MR. HINES: -- before I make a decision as whether to call him to testify.

THE COURT: What say the State?

MR. PELLECCHIA: Your Honor, if the defendant takes the stand at the trial and makes inconsistent statements, we can impeach him with the statement that he makes here in this courtroom here today. The

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

law is clear on that.

THE COURT: Mr. Hines?

MR. HINES: Your Honor, that's not my understanding of the law on that point, and that's what I -- I would like the Court to rule on it. It's my understanding, based on Simmons and Lines, that his testimony cannot be used against him in any way at a later hearing.

THE COURT: Well, Mr. Hines, why can't he proffer his testimony or give his testimony now, and then at the time of trial, if the testimony is introduced or attempted to be introduced by the State for any purpose, that you place the objection and the Court rules at that time? It's really not an issue that's brought before the Court, and you're asking for an advisory opinion.

MR. HINES: I realize that, your Honor. Can I have a moment?

THE COURT: Yes, sir.

MR. HINES: Your Honor, I'd like to have a brief recess to talk to the defendant about this matter.

THE COURT: All right, we'll take a five minute recess.

(A short recess was held.)

MR. HINES: We don't have any testimony to offer

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIN COUNTY COURTHOUSE

at this time, your Honor.

THE COURT: All right, gentlemen, before we -- we're going to have arguments here in just a moment. Before we proceed further, we're going to have a pretrial conference in this case next Friday at nine o'clock. And at that pretrial conference, be prepared to discuss among other things, a day-by-day trial schedule, the jury challenges, what objections are going to be made to the particular exhibits, and the grounds therefore. We'll discuss the sequestering of a jury. We will discuss the number of witnesses who actually will be called on to testify, so we can get some idea of where we're going to be going. I understand there's about 50 or 60 witnesses you've all got under subpoenas; is that correct?

MR. PELLECCHIA: I think it's in the 40's, your Honor.

THE COURT: That's quite a few of them. Also discuss whether or not the scene should be viewed, the scene. This being a capital case, all jury charges have to be in writing. They may be in the standard instruction book, and has to be filed. So, any instructions you wish the Court to give or to consider, have in writing even though it may come out of the standard instruction book. If there are

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
CAMDEN COUNTY COURTS

any motions in limine, we'll hear them at that time also. And we'll also discuss anything else that you feel may be relevant to the conducting of this trial.

All right, Mr. Hines, you may proceed with your arguments on the case.

MR. HINES: All right, your Honor, the first thing I'd like to address the Court on is the point in the motion concerning the fact of whether there was a valid waiver under Miranda. And I'd like to quote for the Court some language from Miranda which I believe is relevant.

THE COURT: Well, I think we all agree with what Miranda says. It's the law, has been the law for many years. Let's get down to particular cases as Miranda may be applied. And I'm going to direct your attention to Jordan versus State, 334 Southern 2nd 589. Have you read that particular case?

MR. HINES: No, I haven't.

THE COURT: All right, well let me -- I did this research over the lunch hour. And in order to save time and narrow the issues, this case seems to be fairly much on point. And it involves a case to determine whether or not a man or defendant in a case waived his -- or waived his rights under Miranda by just a nod of the head. Now, in this case we have

actually before the Court that there has been three times a person's been advised of his Miranda rights. Twice he acknowledged that he understood what they mean. And the third time, which if I remember correctly, that each question was asked specifically. And one of the questions was, do you want a lawyer. And he answered that he did not. Now, in this Jordan case, the defendant was waived of his -- or advised of his Miranda warnings following his arrest. And the defendant nodded assent when asked whether he understood the rights contained therein and whether he wished to waive them. And the Supreme Court of Florida held that defendant's waiver was sufficient, and the confession was subsequently given. It was admissible. In other words, in this case, bear out that the rights were warned or given him, and they asked him did he understand his rights. And he just nodded, didn't even have an affirmative reply to that. And the Supreme Court of Florida held that that was sufficient. Now, how would you distinguish the Jordan case from this particular case?

MR. HINES: I don't think that Jordan can be distinguished from this particular case, but I think Jordan is a misapplication of Miranda.

THE COURT: Of course, we're talking about the

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

Florida Supreme Court. And they're the law, of course, that we have to go by. But go ahead and give any argument you want to. I just wanted to narrow the issues and save a lot of time because we all know and agree what the law is, whether or not these particular facts apply to the law. And so, go ahead and make your arguments you desire to.

MR. HINES: Okay, I'd just like to argue for the record, your Honor, that I don't feel, despite what the Florida Supreme Court may have stated in Jordan, that that is a correct statement of the law according to Miranda. And again, I just like to question this portion of the decision in Miranda because I think it's applicable here, quoting from Page 475 of the opinion at 384 U.S. It's -- this is from the opinion. It states an express statement of the individual is willing to make a statement, and does not want an attorney, followed closely by a statement, could constitute a waiver. But a valid waiver will not be presumed simply from the sounds of the accused after warnings are given or simply from the fact that a confession was in fact eventually obtained. No effective waiver of right to counsel during interrogation can be recognized unless specifically made after the warnings we here

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

delineate have been given. And this I know -- I would like to just cite as another case which I feel has some relevancy, Sullins versus United States. It's a Tenth Circuit Court of Appeals case and is cited at 1389 Fed Second, 985. The facts in Sullins are essentially the same as they are here in that there was a waiver signed by the defendants. It's even more extensive than the waiver in this particular case, and it's printed here in the decision. It says the officers did testify, however, quoting from the opinion in Sullin, that at no time had any of the four expressly said that he or she did not want to consult a lawyer before making a statement. Quoting the testimony of the officers, that none of the accused specifically declined consultation with a lawyer before answering questions is fatal to the admissibility of their unculpatory statements, and it cites to Miranda.

Now, there's another case, Proctor versus the United States, another Tenth Circuit case, 404, Fed Second, 819, holding essentially the same rule of law. So, I think that the Florida Supreme Court has interpreted Miranda in one way. I think that the Federal courts, to some degree, have interpreted Miranda to require an express waiver as opposed to a

A-124

silent acquiescence after the Miranda rights are given. And this is the point that I was trying to bring out during the testimony, that there was no express waiver. And it would be my contention, based on Miranda, that they're -- in order for there to be a valid waiver, it has to be express. It has to be made by the defendant. And citing Sullins and Proctor for that particular point of law, that the way that the waiver was obtained in these particular cases, in this particular case does not simply comply with the Miranda decision as I related it to the Court.

THE COURT: Does the State have any brief comment?

MR. PELLECCHIA: The only case I want to cite, I want to rely on, was also the Jordan case. Just brief comments, the record is very clear as to all three statements that he was asked after the standard questions, having his rights in mind, do you wish to talk to us now. He gave affirmative responses to yes, and then it goes much beyond that in the third taped statement where finally it comes down to the point, after having been advised of his rights, Young says, "Bill, would you rather have an attorney here at this time?" And he says no, sir. I would submit to the

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

Court, your Honor, that I believe the appellate courts of the State of Florida in addition have been taking judicial notice of the standard Miranda warning cards. And the standard Miranda warning cards as read here by Officer Young, do not say, "You have a right to remain silent. Do you understand this?" They're basically all the same, and that has never come up before. And the State would rely on the case cited by the Court, Jordan versus State.

MR. HINES: There's one other point I would like to make, your Honor, and that is that most of the cases I read, they said that the validity of the waiver is based, to some degree, on whether the offer of counsel, in other words, you have a right to an attorney, that's what they're saying, that the validity of the waiver depends on the bona fideness of that offer. And where you have a situation where an attorney is available and is there and they offer him to the defendant, the defendant waives that right to that attorney; that's one thing. Butwhen the attorney is not available, has never been contacted, has never been consulted, and you offer him one, then that doesn't make the offer very -- is not a bona fide offer. And it has a bearing on whether the -- there is in fact a valid waiver. In other words,

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

the -- my -- it would be my opinion, based on reading a lot of the different cases on this point, that that is something that the Court should take into consideration, that is whether in fact the offer of counsel was a bona fide offer or was simply a standard Miranda offer when in fact counsel had never been consulted or the defendant had never been given an opportunity to see counsel prior to the questioning.

THE COURT: All right. Well, the Court's going to adopt the laws set forth in the 1976 Florida Supreme Court, and the Court is going to find on this particular issue that the defendant, Mr. Christopher, was properly explained his rights, and that he understood and appreciated them. It is based on the fact that he was advised of his rights three different occasions. And on one occasion, he definitely stated that he did waive his right to have an attorney, or words to that effect.

All right. Now, the second issue is whether or not there was a promise of leniency offered by the law enforcement officers. And if so, would this be something which would make the confession not free and voluntarily made. And again I've done some research on this point. And in order again to save time and to narrow the issues, I'm going to refer

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

again to a Florida case. This time it's a Fourth District case, 1977, Heaton versus State. Do you have that case, Mr. Hines?

MR. HINES: No, sir, your Honor.

THE COURT: All right, this is a case, unfortunately a PCA as far as the majority opinion, that is, two judges did not write an opinion. However, Judge Major did write a descending opinion, and from that we can find out what the facts were in the case. And in the majority opinion in the PCA held that the confession was valid, and it was not tainted because of the fact it was based on some promise. And it was freely and voluntarily made. And Judge Major in his dissenting opinion, where we get the facts, holds that the defendant's confession was not free from the influence of either hope or fear, in particular the interrogating officer's suggestion however slight, that the defendant's truthful statements would help defendant's wife who was then in custody constituted a form of suttle coercion found by the courts to be impermissible thereby rendering defendant's confession involuntary and requiring its suppression. That was the minority view in that particular case, that were the meager facts that we do have which this case seems to be pretty -- pretty much on point. It's

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

unfortunate that the majority did not write an opinion in the case, but the law is otherwise from what Major said. So, would you care to comment on that?

MR. HINES: Well, your Honor, I -- this case I cited in the motion was Jarriel versus State. And I think this case is somewhat distinguishable from Jarriel on the facts in that there was -- there was no doubt based on the facts as pointed as they were laid out in Jarriel, that there was an express promise made to the defendant that if he cooperated and gave the police a statement, I think that they would release someone. I forget in Jarriel who they were going to let go. I think it might have been his -- again his wife. It was undisputed during the interrogation, the officer told the defendant his wife would be arrested unless the defendant made a statement. Further the officer did not deny that he might have told the defendant that he would only charge him with one incident if the defendant would make a statement. We find the defendant was improperly urged by direct or implied promises to make a statement in violation of the basic tenant of the law that a confessing defendant should be entirely free from the influence of hope or fear. The resulting statements should be suppressed on the authority

A-129
ROBERT E HARRINGTON
OFFICIAL COURT REPORTER
CIRCUIT COURTS EIGHTEENTH

of Lynunn (phonetic)/versus Illinois, 372 U.S. 917, and it cites some other Florida cases. And basically, your Honor, although again I think that the point here is we're not -- we're not saying that there was any express promise to release or to help anybody. I think that the -- what has happened here though, if you look at the statement and you look at the end of the statement particularly where the defendant makes the statement to the officers about what had been done, and you think about the -- when the phone call was made in the context of the entire thing, in other words, the defendant makes one statement on tape wherein he -- he says that this was a murder-suicide that he was a witness to, he then makes -- they then go off tape. He makes another statement reiterating this again. Then there's this discussion with Officer Smith of the Memphis Police Department wherein he finally gives them a statement which Officer Mills testifies he believes to be essentially the true statement as to what happened.

At that point after he makes this second statement, all of a sudden he gets a phone call, and all of a sudden during this call Pam and Pete are released from custody. And it would be our contention that what -- whether it was -- it may not have been an

A-130

express promise, but there was an implied promise that if the defendant would cooperate and would provide the police with the information that they felt was the truth, that he -- they would arrange for the release of these particular people.

Now, maybe this was not said, but it's our -- what we're contending is that this was what the impression the defendant received from what was said during the course of the interview, both prior to the interview and during the interview and off tape and on tape. The impression the defendant received was that if he cooperated, this would facilitate the release of Pam and Pete and would result in charges not being filed against Norma. Now, maybe that wasn't the intent of the police; maybe they weren't intending him to promise to do that. But what we're saying is that that was what was implied in his mind from the way that the questioning went. And I think it's reflected in the final statement that he made. In the statement alone -- statement to the police, the main reason I'm giving this statement is to clear my daughter of everything because she's got nothing to do -- she's not guilty of nothing and my family. It's like Captain Smith said awhile ago, "He's willing to let my brother and sis-

A-131

ter go because they have them charged with accessory after the fact, and they're not guilty of it." And this is in the statement, so there's no doubt about the fact if he did say that and what we feel, is that based on Jarriel and the other case that we cited for the Court which was Harrison, is that this was an implication in his mind that this was -- that his cooperation was what resulted in the release of these people. And as Jarriel says, that if there were any promises made either express or implied, then it taints the confession.

And I'd just like to again quote from the opinion in Harrison which is an old Florida case, it is established that in order to render a confession voluntary or admissible, the mind of the accused should at the time be -- it is obtained be free to act uninfluenced by fear or hope. And if attending circumstances or declarations of those present be calculated to delude accused as to his true position and exert an improper and undue influence over his mind, then the confession is unlawfully obtained.

And I think that looking at some of the statements that were made by Officer Mills and Officer Young about the -- what was going to happen to these other people who were in custody, it could have delu-

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

ded the defendant as to his true position and to the true position of these people who were in custody and prompted him to make the statement believing that if he told the police what they assumedly wanted to know, that this would help these other people who he believed were not guilty of anything and help them get out of jail, and that that was the basis for him making the statement, at least partially the basis. And we would contend based on Jarriel and even if it were a partial motive, that it still taints the confession. And we would submit the cases to the Court on that particular point.

THE COURT: State have a comment?

MR. PELLECCHIA: Yes, your Honor, just briefly. I won't go over the facts again and the numerous times that the officers involved testified that no such promises were made. I think the record is clear; the State's only obligation in this motion to suppress with regard to its voluntariness is to a preponderance of the evidence, and I think that's clear on the record.

With regard to any inducements subsequent to him making the statement about the reason he gave the statement is to clear his daughter, as Mr. Hines alluded to, recall that the first -- excuse me, the

second taped statement says that he had heard from his aunt the police were looking for his daughter. Okay, so he comes in there with this impression. He is arrested with them in their presence. Obviously it's a concern, but the question then becomes was he induced by the police. His own intermotivation as to what he may have had to do is in line with the thinking of the -- of a case previously cited by the Court in a descending opinion, the suttle coercion. And these inducements, and I would cite for the Court the case of Ebert versus State, the inducements must come from some extraneous pressure not just arising from the apprehension which he may have in his mind. It's quite obvious from all of this, from all the testimony we've had here today and the quotes from the various statements that he did make on the tape and off the tape, that he was concerned about his daughter and about his brother and about his sister. But certainly it was not held over his head either expressly or impliedly in order to get him to make the various statements which he did in fact make. He had a concern albeit even a legitimate concern, but there is nothing in the record which would indicate that he was any way induced to make a statement which would, but for

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIN COUNTY COURTHOUSE

such an inducement, be other than free and voluntary.

Now, I think the basic tenor in the case law in this regard relates to whether or not the confession is worthy of belief after looking at the totality of the circumstances. And I think the totality of the circumstances includes factors such as the time of his arrest, who he was arrested with, what he said about his aunt, what the officers said to him, and the clear testimony that nothing was mentione about their release until they got on the telephone, that nothing was discussed in this regard and in advance would come up with some idea to keep them in custody and let them know that they're still in custody. It was clear that he was very concerned in his testimony as to whether or not his daughter had been -- that whether or not his daughter was going to be charged with homicide or accessory after the fact. And Mills made it very clear after the outset that she was only there as a runaway. And it's clear from Mills' statement on Page 16 of the taped statement, that she would definitely not be charged if she's not involved. There's no inducements, no promises. And there are numerous cases which deal with this, Frazer versus State, which is kind of a test which deals with the worthiness of the credit

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

to be given a particular statement and several other cases. But the Court already cited the descending opinion in the one case, and the Jarriel case is a very strong factual situation, you know. We won't arrest your wife if you confess, and clearly that's not what we have here. And Ebert versus State, the Second District case, 1962 cited at 140 Southern 2nd 63 talks about inducement. And basically it involves a situation where there's a deputy and a minister, as I recall the facts involved. And there's some religious inducements being bantied about. And the Court says that Page 65, in other words, there appears no testimony that any inducements were in fact passed along to the accused as to influence him to admit to conduct tending to show guilt. It is thus left to conjecture at most to inference that the minister told the accused that Deputy Winnett (phonetic) had told the minister that this caused the accused to make the statement attributed to him by Deputy Winnett and which is an admission of guilt. Basically that's what we have here. We've got conjecture; we've got at most suttle coercion which the Court pointed out in the previous case, but certainly nothing tantamount to either an express or an implied promise to benefit him, to give him, hold

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

out anything for hope or reward. And, therefore, I believe that the confession is voluntary on that point.

THE COURT: Anything further, Mr. Hines?

MR. HINES: No, your Honor.

THE COURT: All right. Well, the Court's of the opinion that, first of all, the Court can only make a decision on these type of motions of what is before the Court. The Court has listened to and heard the statements as recorded by the law enforcement officers. And the Court's of the opinion that the law enforcement officers in the first instant did not offer any promise of leniency for the defendant's family, and that the statement was not based upon hope for any leniency because the officers just did not offer it to him in examining the record as a whole.

And two, even if in construing the matter in the defendant's most favorable light, the Court's of the opinion that the Heaton case at 326 Southern 2nd would control, and that case has a similar fact situation as ours. But the Court is going to consider the -- first of all, there was no promise of leniency made, and that's the basis of the Court's ruling. The Court will deny the motion to suppress

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE

the confession.

MR. PELLECCHIA: Your Honor, may I have a specific ruling with regard to that if the Court make a finding on the record, the confession was freely and voluntarily, and intelligently made, and request also that the Court rule that the statements of Mr. Christopher to the officers who have testified here today should be admissible, ruled as admissible at the time of trial.

THE COURT: All right, the Court has previously ruled that Miranda has been complied with. The Court feels that the defendant was explained his rights, and that he understood and appreciated what his rights were.

The Court is further ruling that the confession was freely and voluntarily made, and it was not made because of threats or force or promises of reward or leniency to the family.

And the Court's of the opinion that the motion to suppress is denied, and that if it is submitted into evidence at the trial, the Court will admit the confession. Anything further, gentlemen?

All right, now you have a motion to suppress the evidence; is that correct?

MR. HINES: Yes, your Honor.

ROBERT E. HARRINGTON
OFFICIAL COURT REPORTER
COLLIER COUNTY COURTHOUSE
NAPLES, FL 33962

TRANSCRIPT OF

FIRST TAPE RECORDED STATEMENT

A-139

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA CRIMINAL ACTION

STATE OF FLORIDA,

Plaintiff,

vs.

WILLIAM D. CHRISTOPHER,

Defendant.

TRANSCRIPT OF TAPE RECORDING
OF SWORN STATEMENTS

Taken of William D. Christopher, on September 22, 1977 in Memphis, Tenn., as played to a Jury at the Trial of the above named defendant on August 14, 15, 16, 17, 18, 1978 at Moorehaven, Florida.

NOV 2 1979

A-140

YOUNG: This will be an interview with William David Christopher. The date is September 22, 1977. Present at the interview will be Lt. Curtis Mills, Collier County Sheriff's Department, Sgt. J.C. Boswell, Memphis P.D. Homicide, Lt. McCachren, Memphis Homicide, and Captain Tommy Smith, Memphis Homicide. Bill, before we go any further, with this tape, you've been advised of your rights once and I'm going to read them to you again.

CHRISTOPHER: Okay.

YOUNG: You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish. You can decide at any time to exercise these rights and not answer any questions or make any statements. Do you understand each of these rights as I have explained to you?

CHRISTOPHER: Yea.

YOUNG: Having these rights in mind, do you wish to talk to us now?

CHRISTOPHER: Yes.

YOUNG: Okay. The time now is 7:35 p.m.

CHRISTOPHER: Okay.

MILLS: I want to ask a couple of things, how old are you?

CHRISTOPHER: 35.
MILLS: How far did you go in school?
CHRISTOPHER: Well, when I was locked up, I completed my GED and around about a year and a half of college.
MILLS: Do you read and write the English language?
CHRISTOPHER: Yes.
MILLS: You have no problems understanding when we talk to you in the English language in other words?
CHRISTOPHER: No, I understand good.
YOUNG: Bill, we started out awhile ago, we were talking about the death of Bertha and George Ahern.
CHRISTOPHER: Right.
YOUNG: That would be Bertha Skillen and George Ahern, and you were telling us that you did have knowledge of that death, is that correct?
CHRISTOPHER: Yes, sir.
YOUNG: Would you go ahead in your own words and tell us about that day --
CHRISTOPHER: Okay.
YOUNG: -- and any previous knowledge of this incident?
CHRISTOPHER: Okay. I'm just going to go ahead and just start from what I know about it and we can play it when we get back into other details about these phone calls and ladies and all that stuff.
YOUNG: Right. We -- we may have to speak up a little bit

more.

CHRISTOPHER: Okay. At approximately ten minutes after 7:00 I left to carry my daughter, Norma Gay Sands to Lely High School.

YOUNG: This is in Florida?

CHRISTOPHER: Right, Naples, Florida. When I left from taking her to school that morning, I told her that I would pick her up about 12:00 o'clock, because Boots and Charlie, they deliver those Meals on Wheels, they take food around to older people that couldn't get out.

YOUNG: Yes.

CHRISTOPHER: So I knew that they'd be gone before then, at where we could get our, you know, get our stuff out of the house. Like I said, we had been planning on me and her leaving for the last 3 or 4 days.

YOUNG: You had planned this previously?

CHRISTOPHER: Yeah.

YOUNG: About leaving? Then you knew --

CHRISTOPHER: Several people knew about it, I believe even Boots knew about it. But anyhow, to get back to this, I -- I got back to the house and somewhere around 8:00 o'clock, I had a cup of coffee with Boots, we talked for a few minutes, and she got a phone call, and some lady. Like I said, I'm not sure if it was long distance or what, but I knew it was upsetting her. Okay. Her and Charlie was having a few words

about it and when they did, I told them I'd be back. I went down to the construction site in the back of the Glades where the company that I had supposed to be working for were working, and there wasn't but one guy back there, and uh, he told me that the rest of the crew was to be back shortly.

YOUNG: Was this the Glades Country Club?

CHRISTOPHER: Yeah, the condominiums there. Okay. I came back to the house, I went to the 7-11 too, and I got a couple beers. I come back to the house, wait a minute, I'm getting mixed up. Boots was gone when I came back to the house.

YOUNG: This was the first time?

CHRISTOPHER: Yeah. Yeah.

YOUNG: At 8:00 o'clock?

CHRISTOPHER: Well, it was after 8:00, I guess it was pretty close to 9:00.

YOUNG: When you came back she was gone?

CHRISTOPHER: Yeah.

MILLS: When you came back from taking --

CHRISTOPHER: Yeah. I'm sorry.

MILLS: -- Norma to school?

CHRISTOPHER: That's right. Uh, yeah. That's after I went down the first time uh, to the, it's right behind the parking site, you know, four or five buildings back, where they got a construction site going up back there. And Bootsie's car was gone when I first got back.

A-144

YOUNG: That was around 8:10 or 8:15 right?
CHRISTOPHER: Yeah. This is after I had a cup of coffee with her. I went down there, I wasn't down there too long, and I went to 7-11 and got two beers and come back to that site, and then came back by the house. Boots was gone, and uh, Charlie told me that as soon as she got back whatever, that's when me and him would go to the bank. So I left from there then and went back down to the construction site, and most of the crew was down there then, and I sat down there and talked to these guys, and I guess I messed around a little over an hour.
YOUNG: Did anybody talk to you there?
CHRISTOPHER: Uh, yeah, one of the boys there, I think he was one of the assistant foremen, his name was Gary.
YOUNG: What about the last name?
CHRISTOPHER: My mother's got my billfold with the boy's address, his name and everything, name and telephone number on there. And I gave her my billfold yesterday. Okay. When I come back to the house, like I say, it had to be in the neighborhood of 10:00 o'clock, or a little bit after, Charlie met me at the door. I mean, so I could go in, and he come on out and said come on we'll run on down to the bank now, and instead of taking my car, we took Bootsie's car. He handed me the keys and told me to drive. Charlie don't like driving much. Okay. We got down to the bank and pulled into the

drive-in window, uh --

YOUNG: What bank was that?

CHRISTOPHER: Citizens Bank.

YOUNG: Of Naples?

CHRISTOPHER: Yeah. And uh, the lady inside the teller's cage told us, that uh, Mr. Ahern said, you'll have to come inside to see one of the gentlemen upstairs or something like that, they had a hold on $300 or something of his, you know, in his account or something. I think what he had done, he had borrowed a $1,000 or withdrew a $1,000 out of his savings and put it in his checking account a few days before or something and, he had $306. I think $306 odd dollars and some odd cents left. Okay. So I pulled back in front of the bank and he told me to come on with him and I'll explain this. He called the guy's name upstairs that he talked to. So, we went upstairs and he told him, you know, he said, my friend here Charlie, he knew I was leaving that day, he said my friend here needs to borrow some money, you know, for his car, he's got to make a trip, and uh, he found out exactly what the hold was on his money, and about his checks coming in and all, so the guy told him some facts, that'd be all right we'll just put a hold on one of his checks, which I think one of them was $400 and he got a couple more, you know, a month 300 and something or over $400 whatever. So, he just told him he'd put a hold on the check you know, and uh, all I asked Charlie for was $200.

Well he wanted to withdraw all of it out of the bank, well the guy told him, he said that it would be best, you know, to leave something in here, just go ahead and take $300 and leave the $6 whatever it was, that way we could keep your account open and everything, so that's what he did, and uh, he had to give him a little slip to go back downstairs to the teller, you know, to get the money. So, me and him went back downstairs and the guy came down right after that, he had to make another withdrawal slip, and he presented this to, I think she was a Spanish lady, there was two tellers standing there, and uh, they give him the money $300 you know, and uh --

YOUNG: Were you with him inside?

CHRISTOPHER: Yeah. He handed the money to me, and we went on back out to the car, and started back you know, to the house. So, when we pulled up in front of the house, you know, and started to get out and get in, I asked him if I should lock the door of the car, 'cause she always keeps it locked, and he said no, that's all right, just, you know, bring the keys, he said, let me have the keys. So handed the keys, and we started back in the house like, and he stopped, and he says man, would you like to have a beer. I said sure, I knew I had three beers in the refrigerator. Whether he had drank them or not I don't know, he drank, you know, 2 or 3 six packs a day. He said, why don't you go down and get us a six pack then.

YOUNG: What time was this now Bill?

CHRISTOPHER: Well, like I said, it had to be around 10:00 o'clock when I got back to the apartment. Now however long it takes to drive from there to about two and a half miles, it's about three miles from there to Citizens Bank, that's three and a half, you know, going down whatever street that is out in front out there, by the time it took us to talk to the teller, go inside and talk to the man upstairs, and drive back, uh, it couldn't have been more than an hour I guess. If it was that long.

YOUNG: It must have been about 11:00 o'clock then, when you got back?

CHRISTOPHER: I imagine so. Okay. I knew that they had to get ready to go onto the -- I mean, the Meals on Wheels thing, well, instead of going straight on out to the car and leaving to go and get a six pack, Charlie went on in the house. All right, now I just knew that I had another pack of cigarette you know, inside the house, because I just about smoked the whole pack, so I went inside, I knew I had them laying on the chair. I went in to get them, and Charlie turned around and looked at me when I opened the door, you know, he looked at me kind of funny. He said what's the matter? I said, I left my cigarettes here, okay. I see a spot of big blood in front of the refrigerator, I said, damn Charlie, what's the matter. He said, I hear the water running back in the bath.

He said, Boots cut her finger real bad, well I never thought no more about this, you know. Never thought nothing else about it. I said, I'll be right back. So I turn and walked on out then, and went out and got in my car. I left went around by the Glades and come back up around by the fire department to the 7-11. I know that man would tell you the same thing because I would go over there almost every day. I got a six pack and I got two packs of Pall -- I mean, Marlboro 100s for my daughter, and got me two packs of cigarettes. I came back, Charlie was in the kitchen, and things looked like he had something down there wiping that blood up, you know off things, and then I seen kind of faded tracks on the carpet, you know. And Charlie looked at me kind of funny, he say, did you get the beer? I said, yes. So I set the beer down on the, on the table. He was standing right there at the kitchen, in front of the phone. Boots' purse was sitting in the, there was a chair sitting there. And I kept looking at that, you know, and I felt well hell, if somebody cut their finger, why would there be just one big puddle, it was like it would be some splattered, you know, everywhere. And uh, Charlie got one of the Budweisers open, and took one drink out of it, and set it down. I opened me one, I had already drank one out there by the time I come back to the house, and I opened another beer and uh, he said I'll be back in a minute. All right. I went over there and sat

down on the white chair by the front door, the t.v. was on. The doors, I know that morning when I left were open, the sliding doors, and this window beside me, the long window was open. All right. It was closed, the air conditioner wasn't on then, but the thermostat had kicked it off or whatever, but the doors were shut, and the little iron bar was still there in front of the one in the living room. I looked at that and I kept looking up and I kept hearing the water running back there, but I never did hear Boots' name, and I couldn't have been sitting on that arm of that chair two minutes, I heard a gunshot.

YOUNG: Well, where did the gunshot come from?

CHRISTOPHER: Bedroom.

YOUNG: How many bedrooms are in the house?

CHRISTOPHER: Two.

YOUNG: Which bedroom was it?

CHRISTOPHER: There's Bertha and Charlie's bedroom, there's Norma's bedroom. They were back -- he was back in that room. I walked back there and I knocked on the door, they always keep a little do not disturb sign on there, when the door is shut, that meant, you know, you don't come in there and mess with nobody, that's the way Boots was, you know. And, uh, I knocked on the door, I said, Charlie? And he never answered. I opened the door, Charlie was laying on the bed, over on that side, next to that wall, and he had kind of like headed back

his legs were jerking, you know, muscle spasms, and I said, Charlie, what's the matter with you, and he fell off in the floor then. Well, my gun, I say it's my gun, it's not my gun, I got the gun from Gene Carrington, all right, it's laying on the bed, I looked over Charlie and Charlie had a hole, looked like he had a hole with this blood coming out of his head right in here somewhere, and it scared me so bad. You know, I thought, well lord god, you know, and I looked over at the.bathroom door, and the bathroom door was shut too, and there's still water running in there, you know, the water's been running for this length of time. Now you can see dark splotches --

MILLS: You said the door was closed?

CHRISTOPHER: Yeah. There was dark splotches on the floor, on the carpeting, and I thought, well, Boots is in there, you know, and I knew then something wasn't right, and I opened the door, and I couldn't open it all the way on account of Boots, she was laying there. I pushed the door on open. She had a blue blanket like it had been wrapped around her head, I reached over and felt her neck, you know, see if like any kind of pulse, and I felt her and I couldn't get none, and I went back to Charlie and I felt his arm. I didn't do nothing then but pick up that gun, 'cause I knew it was going to be traced to me. That's where I made my mistake is picking up that gun, I guess, I don't know.

A-151.

YOUNG: How did Charlie get this gun in the first place?

CHRISTOPHER: I sold it to him.

YOUNG: When?

CHRISTOPHER: About three days before that.

YOUNG: Okay.

MILLS: How much?

CHRISTOPHER: $60. The man had the money, you know. I told him I would take whatever he'd give it to me, you know.

YOUNG: Is this the same gun you had last night with you?

CHRISTOPHER: That was underneath the seat of the car, yeah. The same 22. All right, I got that gun, I put it in my britches, I went in there to get Norma's -- I got two of her suitcases she had packed, we went bought in that store next to Maas.

YOUNG: Sears?

CHRISTOPHER: Next to Sears, that big department store. Anyhow

YOUNG: Mass Brothers?

CHRISTOPHER: Yeah. I got that pair of pants, and I didn't attempt to get anything else. I was getting my ass out of there. All right. I've been in the Penitentiary three times. This last time I got violent, and they got me for assault to commit first degree murder, okay. I'm gone, done planned to leave anyhow, both of them are dead, I didn't get no pulse off of them, I know they got to be dead, all right. I went and picked my daughter up at school, I signed her out, we left.

that girl didn't know anything about this until I told her in Carlisle, Arkansas, and she didn't believe me, she didn't believe me until Pat called the other day and told my mother on the phone, my mother liked to fell on the floor, you know, screaming and hollering, and that girl didn't believe that until then.

YOUNG: After -- you say you felt for Bootsie's neck for her pulse, and Charlie's arm?

CHRISTOPHER: I felt for here and I felt for her wrists.

YOUNG: Where did you check Charlie at?

CHRISTOPHER: His neck and I checked his wrists too.

MILLS: Where was he?

CHRISTOPHER: He was over between the floor and the sliding doors.

YOUNG: You checked his throat for a pulse and you didn't get any? Okay. Go ahead.

CHRISTOPHER: We left.

YOUNG: You and a --

CHRISTOPHER: Right, she didn't know anything about it.

YOUNG: You picked her up some place then?

CHRISTOPHER: I picked her up at Lely High School.

YOUNG: Did you then go anywhere else in Naples after you picked her up?

CHRISTOPHER: Ah, yeah. I stopped at the service station at a, across from the Buccaneer Inn, 'cause they had a tire down

that they'd fixed for me, I picked my tire up, 'cause I knew I was subject to have a flat, and I didn't -- I had my jack but I didn't have, you know, the lug wrench or anything, to jack it up with, and I stopped at the place the other side of Citizens Bank, K-Mart, and tried to get a lug wrench there, and they didn't have one, so I had to stop in Ft. Myers, I went on from there to Ft. Myers.

YOUNG: When you were talking about the bank you said Charlie got $300 out of the bank, is that correct? Now you may have told me -- what did he do with the money?

CHRISTOPHER: He gave it to me.

YOUNG: Oh, he gave it to you, you may have answered that.

CHRISTOPHER: Yeah. He handed it to me right there.

YOUNG: Was this just a loan or how were you to pay that back?

CHRISTOPHER: Like he told me, he said you pay it back when and how you can.

YOUNG: You and Charlie got along all right, I assume?

CHRISTOPHER: Yeah. We got along real good. Every time him and Boots would get into it, I'd go up to his trailer or up to this place where he'd drink beer and everything, in Bonita Springs, and I'd talk to him, and I'd get him to come back to the house, you know. I can prove this by several people.

YOUNG: Oh, I'm not disputing your word, we've got two dead people we're trying to investigate.

CHRISTOPHER: I know that. And I know that I'm the prime number one suspect, and I'm just telling you I didn't kill anyone.

MILLS: Bill, what did you tell Norma?

CHRISTOPHER: Listen, I didn't know how to tell that kid. I mean, this is her foster mother, she loved her, you know. I tried for, I don't know, four or five days you know, to figure out how I was going to tell her about it, and hell, every time I tried.to talk to her, I couldn't do it. So I just set her down one night, you know, and I'd been cutting the news off, you know, to keep her from seeing it, you know, and I thought maybe, I didn't want her to see it that way, just right on the news cast, you know. So I told her, Norma, I got to talk to ya, I got something I got to tell ya, and I said I don't think you're going to like it, you're not going to believe me, and I said, I got something to tell ya, and I told her.

MILLS: What'd you tell her?

CHRISTOPHER: What I told ya all.

MILLS: Did you tell her how you got the money?

CHRISTOPHER: She knew when I was getting the money from Charlie.

MILLS: When you got that money, you had it when you left Naples?

CHRISTOPHER: Right.

MILLS: What did you do with it?

CHRISTOPHER: Give it to her.

MILLS: What did you tell her about it when you gave it to her?

CHRISTOPHER: Told her it was money I got from Charlie.

MILLS: Okay.

CHRISTOPHER: I had about $40 outside of that left of the money that he had already, you know, I had some from him buying that gun from me, he give me three $20 bills for the pistol. That was three days or four days.

MILLS: Did you explain anything else to her? How did you tell her that you got out of the house with the bags?

CHRISTOPHER: She knew that they had to go to this Meals on Wheels thing, I just told her I had to wait for the opportune time to take them out, because I knew, you know, if I took them out in front of Boots and them, she was going to raise hell asking what are you doing taking all those clothes out of here.

MILLS: In other words, you told her that everything was okay then. Between Boots, and yourself and Charlie?

CHRISTOPHER: Yeah.

MILLS: There was no problem that morning when you left?

CHRISTOPHER: Right.

MILLS: You say when you left that morning when you came back, one time you said you had a cup of coffee with Boots --

CHRISTOPHER: Yeah, that's after I carried Norma to school,

and uh, I stopped and picked up a pack of cigarettes at the 7-11.

YOUNG: Then you left again to go somewhere else?

CHRISTOPHER: I went down to that site, the construction site.

YOUNG: Then you came back? One more time, around 10:00? And Boots wasn't there?

CHRISTOPHER: I didn't see her now.

YOUNG: Was the car there?

CHRISTOPHER: Uh -- the first time that I came back the car wasn't there. Wait a minute. The first time I came back, I had coffee with her, the second time I came back, --. No, her car wasn't there.

YOUNG: It wasn't there the second time either?

CHRISTOPHER: The second time when I came back her car wasn't there.

YOUNG: Do you know where she was at?

CHRISTOPHER: No, I don't have no idea. I know what I --

YOUNG: That's when you and Charlie went to the bank, right?

CHRISTOPHER: Right.

YOUNG: Okay. Did you drive to the bank?

CHRISTOPHER: Yeah.

YOUNG: Was there anybody else in the neighborhood there you saw that day?

CHRISTOPHER: The lady next door.

YOUNG: Did you talk to her?

CHRISTOPHER: I just spoke to her, you know.

YOUNG: Was she out around the building or anything when you was just running in and out? You and Charlie?

CHRISTOPHER: I saw her a couple times, she was doing her wash, you know, we got a washer and dryer back there, and Norma babysat for her son, I mean, with her son.

YOUNG: Right.

MILLS: Uh, Bill. When did you first go to Naples, this is ah. Okay now. She's your daughter?

CHRISTOPHER: Right.

MILLS: When did you first meet her. I understand there was a period of time when you never saw her?

CHRISTOPHER: Fourteen years, twelve years, I know, I never saw her, because she was given up when I was at the funny farm in 1962.

MILLS: And when was the first time you saw her?

CHRISTOPHER: Ah, 1975.

MILLS: Where was that?

CHRISTOPHER: She came up to visit with, ah, with her natural mother, Pat Stock in '75, and Pat called me on the phone, and asked me if I'd like to meet my daughter, and I said, naturally I'd like to meet my daughter, and I said, naturally I'd like to see her, you know, so Pat brought her over, you know, and I got to take her swimming several times, you know, we went to the show and all that kind of stuff.

A-158

MILLS: Now you and Pat Stock were never married?

CHRISTOPHER: Never were.

MILLS: But in '75, I guess the summer, the summer of '75 you met?

CHRISTOPHER: Right.

MILLS: After that, when was the next time you saw her?

CHRISTOPHER: This year.

MILLS: This is '77, did you skip a year?

CHRISTOPHER: Yeap. She wasn't up here in '76, it's been a period of about two years, close to it that I --

MILLS: She came back up here this summer and you saw her again?

CHRISTOPHER: Yeah. She stayed about five weeks this time.

MILLS: Did you go back down with her?

CHRISTOPHER: No.

MILLS: What happened there, how'd that come about?

CHRISTOPHER: Gene Carrington and I were more or less, you know, buddying around with each other and ah, we had a trailer that was left in Tennessee, and we moved it, or started to move it this particular day when I left, ah, I don't remember what date it was.

MILLS: She had already went back?

CHRISTOPHER: Yes. She'd been back two or three weeks.

MILLS: Okay. You and this fellow with the trailer, you were going to move the trailer?

CHRISTOPHER: Yeah. We were to move the trailer down to Con---, Miss. And we went down to rent a place in Con--, Mississippi, on the lake down there, and he was going to pull his trailer down there. So, we had it hooked up to his Ranchero he had, an El Ranchero, we had it hooked up to it, the electric brakes hung up on it, and tore the whole inside of the wheel right out, the lug, I never seen one do like that before. I mean, it just tore the whole thing there, and like to lost the trailer, like to turned over. So I came back to Memphis and uh, went out to his Mom and Dad's, and picked up $200 from them, and I went by my mother's, and I'd already been planning on going down there anyhow, you know, because the way that she lived, there was a lot of conflict when she left anyway, between me and her mother, Pat. And Pat said she never was going to let me see her again when she come up here, and all kinds of crap, you know. So, ah, that's the day that I left, I don't know exactly what day it was, I imagine you can check with ah, ah, ---- aunt, in Atlanta, for the date, because I remember spending the night there, before going on.

MILLS: This -- what kind of car did you go down in?

CHRISTOPHER: '73 Pontiac.

MILLS: And whose was that?

CHRISTOPHER: Ah -- I was in the process of paying for it, ah, to Gene Carrington.

MILLS: In other words, it was your car, and you were buying it?

CHRISTOPHER: Well, I didn't have the title to it, you know.

MILLS: But there was an agreement between --

CHRISTOPHER: That's right, there was an agreement between us. And, ah, I understand later that he had a warrant put out on the car. His mother did or his step-son or something -- but ah, I talked to him last night, and ah, I found out about it.

MILLS: Okay. When you left here, you took this gun with you?

CHRISTOPHER: Yeah.

MILLS: Where had you got that gun?

CHRISTOPHER: From him.

MILLS: Same guy you got the car from?

CHRISTOPHER: His wife's gun.

YOUNG: Bill, when you, when you found that gun, you said it was laying on the bed, did you check it?

CHRISTOPHER: You mean to see if it had been fired?

YOUNG: Yeah.

CHRISTOPHER: Yeah. It had two empty -- shells in it.

YOUNG: How many did you hear?

CHRISTOPHER: I didn't hear but one shot.

YOUNG: Where'd you get those bullets you had in your pocket last night?

CHRISTOPHER: They were in the glove compartment in the car.

A-161

YOUNG: In what car?

CHRISTOPHER: The Pontiac.

YOUNG: You mean, you'd been carrying them since you ditched the car?

CHRISTOPHER: Well, I had the gun in there, you know, the gun, and I think it was a couple old steel jacketed 32 shells, and an old lead 32.

YOUNG: You heard one shot -- you only heard one shot?

CHRISTOPHER: Yeah. I only heard one shot.

YOUNG: And that had to been the one that killed Charlie, right?

CHRISTOPHER: Right.

YOUNG: Did Charlie ever speak or anything. Did you say he was on the bed quivering?

CHRISTOPHER: Na. He never said nothing.

YOUNG: Never said a word? How long were you in that living room? Did you go to the bathroom before you checked Charlie? I mean, how much time would you say elapsed by the time you heard the shot and you went in there?

CHRISTOPHER: Less than a minute, 20, 30 seconds, I guess. You know I heard the shot.

YOUNG: You say you called his name a couple times?

CHRISTOPHER: Yeah. I went to the door, and I said Charlie. I knocked on the door, you know, Charlie? I opened the door and when I did he kind of had his back to me, he was on his

side, and his legs was jerking, and then he fell over on the floor.

YOUNG: He didn't fall on his face or anything?

CHRISTOPHER: He was laying kind of, you know, like this on the floor --

YOUNG: On his side?

CHRISTOPHER: -- yeah. 'Cause when I raised him up, you know, felt for his throat, I felt for his wrist first, then I felt for his throat, and I seen that blood, it looked like it was coming even from this side of his head, right in through here.

MILLS: Which wrist did you feel?

CHRISTOPHER: The one that was laying up here, it had to be the left wrist.

YOUNG: Was he bleeding? Then, when you, was he still bleeding

CHRISTOPHER: Head, just had blood coming out of his head.

MILLS: There was a flow of blood coming, what then?

CHRISTOPHER: You know, there wasn't a large amount of blood or anything, I mean, blood was just, I guess maybe where he hit the floor, the bed or whatever, you know, he had blood all over this side of his head.

YOUNG: How was he dressed?

CHRISTOPHER: Ah, god, he had shorts on, I know that. I don't believe he had no shirt on.

MILLS: Anything else about his dress?

CHRISTOPHER: No response.

YOUNG: Did he have shoes?

CHRISTOPHER: Had had lost one pair of shoes, uh, fishing. I think he had on a pair of, kind of like canvas slip on shoes. I believe that's what he had on when we went to the bank.

MILLS: How was Bertha dressed?

CHRISTOPHER: No response.

MILLS: You had coffee with her there earlier?

CHRISTOPHER: Yeah.

MILLS: How was she dressed?

CHRISTOPHER: She had a pair of shorts on, and I think it was a printed top, I -- man, I'm not really sure.

YOUNG. When you brought that, Charlie back from the bank, where did you park Bertha's car?

CHRISTOPHER: Right in the middle of ours.

YOUNG: Where?

CHRISTOPHER: His car was parked here, and I was parked over here, and I parked her's right in the middle.

YOUNG: Between your and his?

CHRISTOPHER: Yeah.

YOUNG: Okay.

MILLS: And you say Bertha's car and his car, what kind of car was his?

CHIRSTOPHER: It's like a little old Volks--- I tell ya, it's

A-164

a Vega, a little blue Vega, it's the only one I've ever seen that had the, you know, instead of having the back side windows in it, it was completely paneled in.

MILLS: Okay. What was her's?

CHRISTOPHER: Uh, Maverick. Dark brown, it had a green bottom and a black top. I don't know what year it was.

MILLS: Was that the first time you'd ever driven her car?

CHRISTOPHER: No, I drove it several times. I've had to drive her home drunk, you know, from, uh, whatever place up in Bonita Springs. Seminole.

MILLS: When you had coffee with her that morning, how was she dressed?

CHRISTOPHER: If I'm not -- I could be mistaken, I can't swear to this, but I believe she had on a pair of black shorts, printed top. I'm not positive, I couldn't be. But I know she wore shorts quite a bit, I know she was working for Upjohn, she had a white uniform, that she wore, you know, it was a nurse's aide, then this other job that she had at the condominium, uh, she just, you know, wore shorts over there, or slip on a dress.

YOUNG: In that period of time, when do you think Bertha came back home? You know, it was -- it was, you're only talking about an hour there that she was gone, she could have been. She was gone the first time you were there. And then when you came back with Charlie from the bank, is that right?

CHRISTOPHER: The first time I came back, I had coffee with her.

YOUNG: Yeah, I know. I'm talking about the time you went to the bank, and you said Bertha was gone, and then when you came back you went to get some more beer, am I correct in saying that? Charlie, when --

CHRISTOPHER: When we come back from the bank yeah. I went got a six pack.

YOUNG: So, you assume that Bertha was at the house at that time, or she come back while you were gone?

CHRISTOPHER: I just assumed she was there, you know, her car was there.

YOUNG: Okay, but do you know she was? Her car was there when you came back from the bank?

CHRISTOPHER: Yeah.

YOUNG: Okay.

CHRISTOPHER: It wasn't there when me and Charlie left to go to the -- to the bank. I know it wasn't there.

YOUNG: Okay. Now on these travels, you did -- you left Naples and did you stop anywhere inbetween there and Atlanta, or, yeah, you stopped in Atlanta one time, right?

CHRISTOPHER: I got a ticket right outside of, I don't even know where this was, I got two tickets rather.

MILLS: Is this going or coming?

CHRISTOPHER: Going. Hell, I was doing 77 miles an hour, and

then, uh, I got one for no driver's license.

YOUNG. Is this in Ft. Myers, you say?

CHRISTOPHER: It was after there, you know.

YOUNG: Who -- who stopped you there? Highway patrol?

CHRISTOPHER: Highway patrol.

MILLS: Sheriff's department? Are you sure it's highway patrol?

CHRISTOPHER: I believe it was highway patrol.

YOUNG: You got a copy of those tickets?

CHRISTOPHER: Sure don't.

YOUNG: What happened to them, do you know?

CHRISTOPHER: I threw them away.

YOUNG: Threw them away?

CHRISTOPHER: Yeah, I'm leaving Florida, I aint paying then damn things, no way.

MILLS: I'm a little bit mixed up, clear -- clear this up for me.

CHRISTOPHER: All right.

MILLS: I take it you got -- did you get those when you were going down or when you were coming back?

CHRISTOPHER: Yeah. When me and Norma was leaving Florida.

MILLS: Oh.

CHRISTOPHER: Coming back from Memphis.

MILLS: Okay. When you picked Norma up from school, before school is dismissed, you said, you signed her out or something

Okay. What time was it when you picked her up?

CHRISTOPHER: It had to be around 12:00. She was in lunch when I got there.

MILLS: And then you -- you left then?

CHRISTOPHER: That is right.

MILLS: How far did you get that night. Did you drive all night?

CHRISTOPHER: I want to say that we drove all the way to Atlanta, but me and her was arguing about that the other day you know, when we was talking to her mother about it. And she said that we stopped at some motel before we got to Atlanta. But I don't believe so. I believe the first time that we stopped, you know, spent the night, uh, was in Atlanta.

MILLS: Let me ask you this. I'm kind of undecided whether to raise the question. Had you been drinking a lot?

CHRISTOPHER: What driving?

MILLS: No, after you left there, had you been drinking?

CHRISTOPHER: Yeah, I drank a few beers, you know.

MILLS: You told us you got up that morning, I can assume, I guess, that you were sober when you got up that morning?

CHRISTOPHER: Sure.

MILLS: You took Norma to school, you hadn't had anything to drink at that time?

CHRISTOPHER: No. Huh-uh.

MILLS: Ah -- you come back you drink a cup of coffee, and ah, you got -- you drink what? Two beers?

CHRISTOPHER: Yeah.

MILLS: Before you picked her up from school --

CHRISTOPHER: Two beers.

MILLS: Do you think it was any more than that?

CHRISTOPHER: Well, I drank one beer with Charlie.

MILLS: One with Charlie?

CHRISTOPHER: Yeah. And I drank a beer walking. Ah, well, I got those two beers from the 7-11 for myself, I drank those, and when I got the six pack I drank one on the way back to the house. When I went in the house I give him one of the Budweisers, then I opened another for myself then.

MILLS: Did you drink it?

CHRISTOPHER: I -- I'm not sure if I drank that one or not. Nah, I'm really not because after the gun shot I went back there and seen both of them, you know, I know I got, I think it was three beers left in the six pack I got that, plus the suitcases and went on to the car.

MILLS: Did you have blood on you?

CHRISTOPHER: Yeah, I had it all over my hands.

MILLS: What did you do about that?

CHRISTOPHER: I washed it off in the sink.

MILLS: What sink did you wash it in?

CHRISTOPHER: Norma's bathroom, the one in the house.

MILLS: Did you get any other blood on you?

CHRISTOPHER: Nah.

MILLS: I'm figuring then you had four beers, at the most when you picked Norma up from school?

CHRISTOPHER: That's about right.

MILLS: Had you taken anything, any kind of pills or anything?

CHRISTOPHER: No, sir. Sure as hell hadn't.

MILLS: You hadn't taken any of that --

CHRISTOPHER: No kind of pills.

MILLS: How about the day before, had you taken anything?

CHRISTOPHER: No.

MILLS: Had you smoked any marijuana?

CHRISTOPHER: No.

MILLS: In other words, what you're saying, what you're telling me then is your head was on straight?

CHRISTOPHER: I think so.

MILLS: You had no problems. And then you drove and you got stopped by an officer up somewhere around Ft. Myers. It must not have been messed up because he didn't charge you with any drunk driving or anything?

CHRISTOPHER: No. That kind of surprised me too, because I was drinking beer when he stopped me.

MILLS: Obviously, you wasn't intoxicated because he didn't.

CHRISTOPHER: No. I sat in the front seat with him, and ah, he was trying to get a check from Shrevesport, Louisiana on

my license, see I'd lost my license, and I had my driver's license number written down, and he was trying to get verification on that, and ah, he called Tennessee to see if they had any warrants on me, and checked the car out, you know, and asked me who the car was registered to, and I told him Gene Carrington, and he wrote this down on the ticket, you know, and he told me that if I could prove by letter or ah, a notified letter that ah, I had a valid driver's license, they would dismiss that one. Throw it away, but they would still get me for $25 for the speeding ticket. So he give me two tickets.

MILLS: Did you ever get a ticket in Bertha's car? While you were driving Bertha's car?

CHRISTOPHER: No. Huh-uh.

YOUNG: When you parked that car, Bertha's car, that's the Maverick what ---- heard, right?

CHRISTOPHER: Right.

YOUNG: Did -- did you lock it up, or did George lock it up, when you came back from the bank, or do you recall if anybody lock it up?

CHRISTOPHER: I don't -- I remember asking him if he wanted me to lock it up. And when I --

YOUNG: Who had the keys?

CHRISTOPHER: I did.

YOUNG: What did you do with those?

CHRISTOPHER: I'm not sure if I give the keys to Charlie, or what I went in I left them down on the table or what, I'm not -- I'm sorry, you know, I wasn't even thinking, you know --

WILLS: You don't remember whether the car was locked up or not?

CHRISTOPHER: No, I really don't, I know that she kept the car locked. We never kept the doors at all, you know, I mean, there wasn't anything in there for anybody to take or any way.

WILLS: What time does Daly High School take in?

CHRISTOPHER: What time does it take in? I think classes start, and, I'm not positive about this either, because I don't go to the same school, you know, I just know that she was there and she said that it takes up at fifteen to 8:00, like she always likes to get there early because her and her friends smoke cigarettes or something before they go in, you know.

WILLS: You say -- you took her over at 7:15?

CHRISTOPHER: Well that's the time I left the house, about ten after 7:00 approximately.

WILLS: Okay. You came from there, let me get this straight in my mind, from there back to the house, or did you stop anywhere --

CHRISTOPHER: No, I stopped at the 7-11 for a pack of cigarettes.

MILLS: Stopped at the 7-11. Then you went from there on to the house?

CHRISTOPHER: Right.

MILLS: Okay. Bertha was up?

CHRISTOPHER: I had a cup of coffee with her.

MILLS: Was she up when you left the house?

CHRISTOPHER: Yeah. Charlie wasn't up when I left --

MILLS: Charlie wasn't up. She was up when you left the house to take the girl to school?

CHRISTOPHER: Boots was up every morning.

MILLS: Okay. And then you go back, and you and Boots have a cup of coffee? And you left the house again. What was the purpose of your trip that time?

CHRISTOPHER: To go down to see if those guys had started working back behind there. See, Boots and them thought that I still had the job with --

MILLS: Yeah.

CHRISTOPHER: -- but I never did have the job with then.

YOUNG: You never did work?

CHRISTOPHER: No. I never did work for them.

MILLS: Okay. You went down there, and ah, before you left the house that time, had George got up?

CHRISTOPHER: I don't think so.

MILLS: But that's when Boots got the telephone call?

CHRISTOPHER: Yeah, they did. Yeah he was up too, because

she'd gotten that telephone call, and ah, ah, yeah, because that's when the argument, a few words --

MILLS: So you left and went down --

CHRISTOPHER: Right back behind the Glades.

MILLS: Okay. You stayed down there and talked to these guys?

CHRISTOPHER: Nah, there wasn't but one guy down there, he said the rest of them would be there in a little while, you know.

MILLS: Okay. What -- what did you do then from that?

CHRISTOPHER: I went to the store and got a couple beers at the 7-11.

MILLS: You got two beers?

CHRISTOPHER: Uh-huh.

MILLS: Okay. What did you do then?

CHRISTOPHER: I -- when I come back then, that's when Boots was mad. Her car wasn't there. The second time yellin'. I come back with the two beers, you know, that's when I drank the beer with Charlie, he had Old Milwaukee.

MILLS: You and Charlie sat in there and drank two beers?

CHRISTOPHER: Yeah. I drank a beer with him out in the front.

MILLS: What? Out in the front?

CHRISTOPHER: Yeah. In his car.

MILLS: In other words, you didn't go back in the house?

CHRISTOPHER: Yeah, I went back in the house.

MILLS: What did he say about the argument that they'd had?

A-174

CHRISTOPHER: He said nothing about it to me, not that day.
MILLS: Like you sat around there and you and him drank the beers. What happened then?
CHRISTOPHER: I left and went back, he told me, you know, as soon as Boots got back, that's when we'd go to the bank. I left then and went back down to the construction site, and that's when all the guys were down there then, and was talking to them. When I came back, Bootsie's car was there, I was wrong about that. Her car was there then, and that's when it had to be around 10:00 then, me and him left and went to the bank.
MILLS: How did ah, Norma take it when you told her about that?
CHRISTOPHER: Like I said, she didn't believe me. I guess she thought I was joking with her or something.
MILLS: She just didn't believe that they were dead?
CHRISTOPHER: Well, it just never registered on her, you know. It was like saying, you know, when your little cat got run over or something. I don't think it really registered on her till the other night when Pat called and her mother went all to pieces, you know, I think she fully realized then, that they were dead.
MILLS: But you -- you had told her about George giving you the money. But you hadn't told her anything about the deaths?
CHRISTOPHER: How in the hell do you tell a fifteen year old

kid that her foster mother and some old man's dead, you know.

MILLS: But then sooner or later you're going to have to tell her?

CHRISTOPHER: I just tried to figure out the best way to tell her, you know, I did.

MILLS: Did you ah, explain to her why you didn't call the police?

CHRISTOPHER: She knows that, she knows about me being in the Penitentiary. But she knows about that gun being there. She knew that I had it in my possession.

MILLS: Did she try to get you to call the police or anything?

CHRISTOPHER: Nah.

MILLS: Where were you when you told her about it?

CHRISTOPHER: Carlisle, Arkansas.

MILLS: At whose house?

CHRISTOPHER: Was in a motel.

MILLS: Was that in Carlisle?

CHRISTOPHER: Yeah. The motor burn up in the car.

MILLS: In the Pontiac?

CHRISTOPHER: Yeah. I had to get it towed in and all that.

MILLS: To the motel?

CHRISTOPHER: Garage right across the road from the motel.

MILLS: Did you get your car fixed?

CHRISTOPHER: No. It burned up man. ----- let Gene worry about it.

MILLS: What -- what did you do with the car?

CHRISTOPHER: I -- sold it. Junked it.

MILLS: You sold it to the man in the garage across the street or --

CHRISTOPHER: No. From a garage down in Carlisle, he come out and looked at it, and asked me what I wanted for it, and I told him I'd take any damn thing he'd give me for it. He give me $85.

YOUNG: Did he give you any kind of bill of sale or title?

CHRISTOPHER: Yeah. In a bogus name though.

MILLS: Did you sign somebody's name to that title?

CHRISTOPHER: Yeah. Well there was no title to it, you know.

MILLS: What kind of name did you put on it?

CHRISTOPHER: James --

MILLS: Pardon?

CHRISTOPHER: James Tignor.

MILLS: Is that the name you was registered under at the motel?

CHRISTOPHER: Yeah.

MILLS: Bill, you know, Harold and I have been working on this since day one. And -- there's not, not a whole lot about the total situation that we don't know. Just let me say this. This is your situation, this is your ball game. You're old enough, I don't have to tell you how to play it, you play it how you want to, you know how I will play it.

CHRISTOPHER: Well -- I'm going to say this. I know you're all going to try to burn me, you know.

MILLS: I'm going to stick to the facts.

CHRISTOPHER: Okay. Then I'm sticking to the facts. I never pulled a trigger on nobody in my life buddy. Never.

MILLS: Bill, if that's the case, I can't understand why you're telling us what you're telling us.

CHRISTOPHER: I don't understand what you mean by that.

MILLS: I mean, what you're telling us is just not true.

CHRISTOPHER: Like you say, we're both playing a ball game.

MILLS: I'm not playing a game.

CHRISTOPHER: I'm not either.

MILLS: I'm speaking to the facts.

CHRISTOPHER: Okay. Okay. Fact one. Did I or did I not kill one or both of these people, I mean, I've been charged with killing uh, uh, with Charlie's, right?

MILLS: Right.

CHRISTOPHER: Okay. Am I charged with killing Bertha too? I didn't do it, that's all I can tell you, you know.

YOUNG: You didn't kill Charlie, or you didn't kill Bertha?

CHRISTOPHER: I didn't kill neither one of them.

MILLS: I'm not going to lie to you Bill.

CHRISTOPHER: Okay.

MILLS: You --you say you didn't. Play it however you want to. The facts are the facts, they speak for themselves, ah,

you can tell it any way you want to or I can go in and tell it any way I want to. But the fact is the fact, and we can't change it. Now, this is -- this is bad, this is heavy, that's the truth. But still it happened. You can't change it. We're not going to change it, we're going to play it just like it is. Now there's a young girl that's all caught up in this thing, real tight.

CHRISTOPHER: Listen, the run down to ------ had nothing to do with anything.

MILLS: I told you to start with what your daughter was charged with.

CHRISTOPHER: A runaway.

MILLS: Yeap.

CHRISTOPHER: Okay. She had got nothing to do with this. This girl didn't even know anything about it until I told her. She didn't really believe it man.

YOUNG: Bill, you've got a whole bunch of people drawn into this thing, your whole family.

CHRISTOPHER: What, what, man they ain't been in Florida, they had got nothing to do with it.

MILLS: They may not have been in Florida, Bill, but you got them involved after you got up here. Now as far as the girl goes, I don't, I don't really want to drag her into this thing, and if she's not involved in it, she's definitely not going to be charged. However, that don't keep her out of the

the situation --

CHRISTOPHER: I don't understand.

MILLS: -- you know that?

CHRISTOPHER: I don't understand that.

MILLS: That she's your daughter --

CHRISTOPHER: I don't see how she can be involved in it --

MILLS: -- that don't keep her out of the situation. You know that --

CHRISTOPHER: I don't understand.

MILLS: -- now she's your daughter.

CHRISTOPHER: I don't see how she can be involved --

MILLS: Now she's been through a lot, I don't know whether she want to do it ----, but we're going to stick to the facts, one way or another, now, we asked you to tell us in your own words what took place, you know, we want to hear it from you, we can hear it from anybody, all ---

CHRISTOPHER: I just told you.

MILLS: We want to hear it from you. But ah, we start striking out what you told us against the facts, something different.

CHRISTOPHER: I don't understand what the hell you're saying. Really.

MILLS: What I'm saying is that you're not telling it right. That's what I'm saying. And the reason I say that is because I was there. Harold was there. And we've analyzed this thing

through and through, and we sit here and talk with you, and you tell us this, and Bill, it's just simply not true.

CHRISTOPHER: Well, I guess I'm a damn liar then.

MILLS: I didn't say that, all I'm saying is what you're telling us don't match up with the facts, now. You explain that to me?

CHRISTOPHER: I know. I think you want me to tell you something else, and I don't know what you want me to tell you. And I'm just telling you what I did that morning, to the best of my knowledge. You know, hell, that what, a month ago.

MILLS: Uh-huh.

CHRISTOPHER: Right at it.

MILLS: Bill, there's not one part of that morning that would escape your mind. Not one little part of that morning that will escape your mind. You know every minor detail that happened that morning. Just like it just happened. So, it being a month ago, don't make any difference. Four years from now, you can tell me every little detail that happened that morning. It's not going to make any difference.

CHRISTOPHER: I tell you what happened to the best of my knowledge.

MILLS: Dont, don't tell me about the best of your knowledge or lapse of memories suggest --

CHRISTOPHER: I had no lapse of memory, I'm just telling

you what I know.

MILLS: All right. We know, that you know why, it's clear to you, it's in your mind. Ah -- I can't ah, ignore certain facts, and believe something that I know is not true. Would you?

CHRISTOPHER: I'd have to be, I'd have to be in your shoes to say that. What do you want me to say? I killed him?

MILLS: Bill, I don't really care what you say. To be real --

CHRISTOPHER: Okay.

MILLS: -- to be real honest with you. But I'm --

CHRISTOPHER: Why go through this then?

MILLS: But I'm not going to sit here and tell you, ah, when you tell me something, I'm not going to say, "Okay. That's it", and indicated to you that I believe you. I don't buy it.

CHRISTOPHER: Okay. Then you think I'm telling a lie?

MILLS: Right. What you're telling me don't match up with the facts.

CHRISTOPHER: Well, I'm sorry.

MILLS: It's no problem to me.

CHRISTOPHER: I understand that.

MILLS: It don't present any problem to me at all, but ah, it might present some problems to you. So, ah, there is a different way that this thing happened, you know it and I know it, Norma knows it. I don't know how much you care about her

A-182

CHRISTOPHER: What in the hell has she got to do with it. What -- what are you -- are you trying to use her against me or something like that?

YOUNG: No. You used Norma, we haven't.

CHRISTOPHER: No --

MILLS: No, no you used her from down there -- and brought her up --

CHRISTOPHER: That's right. And she wanted to go, I'm her father, man, you know, I never give that girl up. She wanted to go with me.

MILLS: Did she want that thing to happen that happened down there?

CHRISTOPHER: Well, hell no, she didn't want it to happen. How could she. There wasn't anybody wanted a thing like that to happen. If they're in their right mind.

YOUNG: Did you ever have any grudges against Charlie at any time?

CHRISTOPHER: I just met the guy when I got down, I couldn't have known him more than three weeks.

YOUNG: Have you ever heard anybody tell you that Charlie or Norma or anybody ever tell you that he had made passes at her?

CHRISTOPHER: Yeah. I've heard that from people up here in Memphis. He even pulled the blanket up on her, you know, while I was down there. I said something to him. What am I going

to do? Hit an old fifty, some odd year old man? He's sick, or shoot him? That's really something to shoot somebody over though, isn't it?

YOUNG: Well, that is why we're trying to find out why he was shot.

CHRISTOPHER: My god. No. I didn't shoot him, nor I never shot Bertha.

YOUNG: That's the real corker, I can't understand why you killed this elderly lady, I mean I can understand you might be --

CHRISTOPHER: Well, save --

YOUNG: Now wait a minute. Yea, I accused you, for we signed a warrant against you.

CHRISTOPHER: Okay.

YOUNG: Ah --

CHRISTOPHER: Then I got nothing else to say. If you're accusing me of murder, then take me down there.

MILLS: You were accused when you came in here. You knew you were accused --

CHRISTOPHER: That's right. That's right.

MILLS: -- you knew what you were accused of, and I told you what the girl was accused of, so don't make out like you don't know what you're accused of.

CHRISTOPHER: Oh, ah, -- I know what I'm accused of. I know that I'm accused of both murders.

MILLS: I told you awhile ago you were being charged with both murders.

CHRISTOPHER: Okay then. I got nothing else to say.

YOUNG: You mean it's all right as long as we accuse you of one?

MILLS: But all of a sudden when you're accused of two, you don't --

CHRISTOPHER: I'm not saying that, I know that, didn't I tell you awhile ago that I knew that ya, I was accused of both murders?

YOUNG: Yeah. You -- you should know.

CHRISTOPHER: Okay then. What's the need of me saying anything then.

MILLS: What are you upset about?

CHRISTOPHER: You ask me? I'm upset about the fact that you're bringing my daughter up here, like I'm using her in this thing.

YOUNG: I'm asking you --

MILLS: I'm asking you to explain her actions in this thing?

CHRISTOPHER: Her actions. Her actions in what? I don't see where she's done anything.

MILLS: She left home down there. She came up here with you. She hid out with you.

CHRISTOPHER: Why? Because she loves me, she wants to be with me.

MILLS: Is that the total thing, or is that the only reason

that she would hide out, and not ah, call her people?

CHRISTOPHER: She tried to call them.

MILLS: Are you talking about Pat or are you talking about Bertha?

CHRISTOPHER: I'm talking about Boots. I'm talking about she called a friend of hers down there, to have him to try to check on Boots.

MILLS: When did she do all this?

CHRISTOPHER: Exactly what day, you'll have to ask her about that, I don't know. But I know that she did call. And I know that Pat hadn't done anything but accuse her of killing and everything else, you know, since she's been with me.

MILLS: How do you know Pat was accusing you?

CHRISTOPHER: Huh?

MILLS: How you -- who you talking about, Pat Stock?

CHRISTOPHER: Pat Stock.

MILLS: How do you know she's been accusing you?

CHRISTOPHER: I talked to her. She's talked to my mother every day. My mother's been telling me what all's been going on, you know.

MILLS: Did you tell your mother what happened down there?

CHRISTOPHER: Yeah.

YOUNG: They believe you?

CHRISTOPHER: I don't know.

YOUNG: Did your mother ever accuse you of killing them?

PERKO CO., RENO, NEV. 89502 - FORM PL 10

CHRISTOPHER: Yeah.

YOUNG: Why would she do that? She knows you better that I do.

CHRISTOPHER: She was hysterical when she got off the phone, she wouldn't even let Norma put her arms around her, you know. She called her a murderer. That's what Pat was saying on the phone, Bill and Norma killed Bootsie and Charlie, you know.

MILLS: Is that what she said?

CHRISTOPHER: That's what my mother said she said. I don't know. I didn't hear her say nothing.

MILLS: Bill, I feel that anybody should have an opportunity to -- to explain things. Ah, the purpose of talking with you, is not cause I need for you to tell us anything, the purpose is I just wanted to hear your version as to why.

CHRISTOPHER: As to why what? I didn't tell anybody about it when I left from down there.

MILLS: As to why these people were killed?

CHRISTOPHER: Tell me?

YOUNG: You were there, Bill.

CHRISTOPHER: I was there when Charlie shot himself, or whatever. I wasn't there when Boots got killed or whatever.

YOUNG: How could Charlie shoot himself three times?

CHRISTOPHER: Three times?

YOUNG: Yes.

CHRISTOPHER: If he shot himself three times, then I don't kno

YOUNG: Did you only hear one shot?

CHRISTOPHER: That's all I did hear, one shot. I know that I took two empty bullets out of the gun.

YOUNG: What did you do with those?

CHRISTOPHER: I threw them in the yard. Threw them in that little lake out there.

YOUNG: What did you do with the other four?

CHRISTOPHER: Left in the gun.

YOUNG: When did you do that?

CHRISTOPHER: Right before I left.

MILLS: Where were the suitcases then?

CHRISTOPHER: They were in Norma's room.

MILLS: You went outside and then came back in?

CHRISTOPHER: No. What are you talking about, where were Norma's, no. Norma's suitcases were with me, I was going out the door when I threw them out there. And I shut the door and went on.

MILLS: In other words, you unloaded the gun before you went outside?

CHRISTOPHER: Yeah.

MILLS: Okay. Let me see your shoes. Bill, are these the shoes that you had on that day?

CHRISTOPHER: Yes, sir.

MILLS: Have they been washed since you left Florida?

CHRISTOPHER: Yes, sir, they sure have.

A-18

MILLS: Where were they washed?

CHRISTOPHER: Ah -- at the Holiday Inn, Memphis.

MILLS: We will issue a receipt for these, we're going to keep them here.

CHRISTOPHER: You mean I just get to go bare foot again?

MILLS: Well, you're going to have to take care of that with the peoples who's keeping you now, as to what you wear, I've no control over that.

CHRISTOPHER: It has blood stains on them.

YOUNG: I see it. How'd they get there now?

CHRISTOPHER: When I went into the bathroom where Boots was.

MILLS: I asked you earlier if you had any other blood on you other than your hands, and you told me no.

CHRISTOPHER: Well, look, I'm just constantly telling lies, look I ain't got nothing to say at all, pete, why I have, you know, and that's it. I ain't saying nothing else.

MILLS: Okay.

CHRISTOPHER: That I'm charged with two murders, ----------, is all I can say.

MILLS: Okay. This brings us up to another point, which has nothing to do with what we're talking about. Ah, we're here from Florida and these warrants, these warrants are from Florida. Which you know you have to be extradited down there. That can come about several different ways, you can sign on whether you want ---------- here. Ah, would you sign a

a waiver and go back?

CHRISTOPHER: When are you all taking me back if I sign a waiver?

MILLS: When?

CHRISTOPHER: Yeah.

MILLS: Ah -- possibly this weekend. These things take time, you know, even signing a waiver, I think there's a little legal mumble jumble here ---

CHRISTOPHER: Right. If I don't sign, how long have I got before you all take me back?

MILLS: Well, we'll go ahead and initiate the ah, the proceedings, and ah, everhow they progress well, as soon as the proceedings are over, then, we're going back down.

YOUNG: I can't say how long it will be, it might take a week, I don't know.

BOSWELL: It's usually 30 to 60 days.

MILLS: Is that right?

CHRISTOPHER: Can I ask one question?

MILLS: Sure.

CHRISTOPHER: I mean, off with this thing too?

MILLS: Sure.

YOUNG: You want it turned off?

CHRISTOPHER: Huh-uh. I don't care, I just, I just like to know --

TRANSCRIPT OF

SECOND TAPE RECORDED STATEMENT

A-191

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA CRIMINAL ACTION

STATE OF FLORIDA,

Plaintiff,

vs.

WILLIAM D. CHRISTOPHER,

Defendant.

TRANSCRIPT OF TAPE RECORDING
OF SWORN STATEMENTS

Taken of William D. Christopher, on September 22, 1977 in Memphis, Tenn., as played to a Jury at the Trial of the above named defendant on August 14, 15, 16, 17, 18, 1978, at Moorehaven, Florida.

NOV 2 1979

A-193

YOUNG: Today's date is September the 9th, 1970 -- correction, September the 22nd, 1977. The time is 10:25 p.m. Location is ah, Memphis Police Department, Homicide Squad, Captain Tommy Smith's office. This will be a taped interview of WILLIAM D. CHRISTOPHER, white male, age 35. Present during this interview will be ah, Lt. Curtis Mills, Collier County Sheriff's Department, Sgt. J.C. Boswell, Homicide Squad, Memphis P.D. and Investigator Harold Young, Collier County Sheriff's Department. Bill, we're going to advise you of your rights once more, since you've talked to us you want to tell us about this thing, and you want it on tape, is that correct?

CHRISTOPHER: Right.

YOUNG: Okay. You have the right to remain silent. You understand that?

CHRISTOPHER: Yes, sir.

YOUNG: Anything you say, can and will be used against you in a court of law. You understand that?

CHRISTOPHER: Yes, sir.

YOUNG: You have the right to talk to a lawyer and have him present with you while you are being questioned. Do you understand that?

CHRISTOPHER: Yes, sir.

YOUNG: If you can't afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish.

Do you understand that?

CHRISTOPHER: Yes, sir.

YOUNG: You can decide at any time to exercise these rights, and not answer any questions or make any statements. Do you understand that?

CHRISTOPHER: Yes, sir.

YOUNG: Do you understand each of these rights that I have explained to you?

CHRISTOPHER: Yes, sir.

YOUNG: Having these rights in mind, do you wish to talk to us now?

CHRISTOPHER: Yes, sir.

YOUNG: Bill, would you rather have an attorney here at this time?

CHRISTOPHER: No, sir.

YOUNG: Okay. Are you going to give a statement on your own free will without threat, promise?

CHRISTOPHER: Right.

YOUNG: Okay. Would you go ahead and tell us, you talked to us off tape, you said you wanted to make a taped statement, rather than a written statement?

CHRISTOPHER: Right.

YOUNG: This tape will be transcribed, and you can read it and sign it later, is that correct?

CHRISTOPHER: Right.

YOUNG: Okay. Just in your own words, do you want to go ahead and tell us what you told us a minute ago, in reference to this ah, --

CHRISTOPHER: Okay. Should I just start from that morning?

YOUNG: Just start from what led up to it, okay? I think that's all we need, isn't it? Okay.

CHIRSTOPHER: Okay. Ah --

YOUNG: Talk loud enough so we'll only have to do this once.

CHRISTOPHER: Ah -- when my daughter came to Memphis to visit with her mother here, ah, I got to know her pretty good and during the time that I got, that I was with her, I found out about ah, George Ahern, and ah, her past step-father, Jim Skillen, putting their hands on her in ways that they shouldn't have, and ah --

YOUNG: You go ahead and explain those ways, if you'd like.

CHRISTOPHER: Okay. And ah -- my daughter'd asked me at one time that if, if I would move to Naples, you know, and get a job down there, you know, where I'd be closer by, and I told her that I'd think about it. And I did go down. And I don't remember the exact date, but I'm sure we can find out what the date is, but when I went to Naples it took me about three or four days to find her, and ah, I was staying on the beach for about four days, and then Boots, ah, Mrs. Skillen, ah, invited me to her house for supper, and asked me if I'd like to stay there until I found a job, you know, and got on

my feet, which I did. And ah, during the time that I was there, on three different occasions, ah, George Ahern had ah, pulled the covers up on my daughter, to check and see if she had any clothes on. Ah, he's put his hands on her breasts, he's tried running his hands down between her legs, and I'd confronted Boots about it, which is Mrs. Skillen, that's her name. And ah, her and Charlie had but one argument about it that I know of, but it was pretty evident that, you know, that she wasn't going to jeopardise her security with him, to -- really do anything about it. So I confronted him about it at one time, and ah, we had an argument, ah, I was called a liar, and then when I had talked to my daughter's friends, ah, I'd found out that he had, ah, pulled the covers up on them too, you know, and tried molesting them, and nothing had been done. At the day of the killing, I should say three or four days before this happened, my daughter and I had already planned to leave Naples. Ah, George and ah, Bertha had been planning on moving to Miami or to Homestead or to Key West, one or the other. And ah, my daughter had packed all of her stuff up the night before this had taken place, which she has no knowledge of anything about, you know, the killings. The day that -- that this happened, I carried my daughter to school about ten minutes after 7:00. And ah, she was understanding that I'd pick her up between, you know, 10:00 and 12:00. Ah, I knew that George and ah, Bertha had

to deliver some meals, what they call Meals on Wheels, there to the elderly people. So, when I came back to the house, ah, I confronted Boots with ah, the situation again about Charlie and ah, you know, was told to get out of the damn house, that I was causing trouble there between her and George. And ah, she had threatened to call the police to me, because she knew that, that Norma was to leave with me. And during the period of the argument there, ah, I shot her once in the head. And I drug her body back to the bathroom, and shut the door, and ah, approximately forty-five minutes or an hour later, Charlie returned and ah, I confronted him about the same problem, which I, I was mad, I was upset, was still scared about what I'd already done, and ah, he tried, you know, to fight me back, I slapped him down, ah, he run for the bedroom, and tried to shut the door, and I pushed the door to, and he backed up and sat down on the bed, and I shot one time at him, and hit him in the head. I think took the pistol, two suitcases and my daughter's pants, and locked the door and I left and went to pick my daughter up from school. I didn't tell her anything about it. She had no knowledge of this until approximately ten days later, and ah, don't think she really believed anything that had happened until the phone call was made by her natural mother, Pat Stock, here in Memphis to my mother. Ah -- I know there's other details in here, but I think this is basically

what you all wanted.

YOUNG: Yes. You said your daughter didn't not have any knowledge of it ten days later. You did tell her a version that, that which was, wasn't true, is that correct?

CHRISTOPHER: Right. I -- I had told her, well I had blood on, on my tennis shoes. I had asked, she had asked about that, and I told her that Charlie and I had got into it, when I confronted him about him pulling the covers up on her and, and feeling her, and ah, she asked me what I did, and I told her that I'd hit him in his nose and, you know, the blood had, had gotten on my shoes. Which, that was what I had to tell her, because I couldn't tell her the truth. You know, I didn't want to.

YOUNG: Bill, when Bertha was shot, would you put us at the scene and tell us how this happened. Where she was at, and where you were at?

CHRISTOPHER: She was in the process of trying to pick up the phone to call the police to me. You know.

YOUNG: She was calling the police on you?

CHRISTOPHER: Well, she was going, that's what she had told me.

MILLS: Which phone?

CHRISTOPHER: The phone that was in the kitchen.

MILLS: She fell then, which way did she fall?

CHRISTOPHER: She fell her head was at the bottom of the

refrigerator.

YOUNG: How did you get her body to the bathroom?

CHRISTOPHER: I wrapped a blue blanket around her head, because she was bleeding so bad. And I grabbed her by her arms and drug her from the kitchen, back through the hallway, through the bedroom, head first into the bathroom and shut the door.

YOUNG: You closed the door?

CHRISTOPHER: I closed the door.

YOUNG: Did ah, then George came in, how, how much later was it?

CHRISTOPHER: Approximately forty-five minutes or an hour.

YOUNG: Did you leave the house between the time that you shot Bertha, and the time that George came home?

CHRISTOPHER: Yes, we went to the bank.

YOUNG: When you and George went to the bank, you had already shot Bertha?

CHRISTOPHER: That's right.

YOUNG: And you came back then, an argument pursued between you and him?

CHRISTOPHER: Right.

MILLS: Ah, Bill, was there anybody else who came to the house during this period of time?

CHRISTOPHER: Yes, sir. There was a woman, ah, doing some type of surveying. Ah, I'm not really sure, I believe that

she came -- I'm sure she came after I shot Charlie.

MILLS: Before you got out of the house?

CHRISTOPHER: Before I got out of the house.

MILLS: Okay. This girl, that you was telling us about, the friend of --

CHRISTOPHER: Beth McIntosh.

MILLS: Was it Beth McIntosh that was telling you about, ah, George feeling her?

CHRISTOPHER: Right. And another friend, ah, her first name is Jill, you'd have to ask my daughter what her last name is, ah, she can confirm this too. This was the three of them that he'd done the same thing to all three of them.

MILLS: Okay. Now, you said that you and ah, George went to the bank?

CHRISTOPHER: Right.

MILLS: What was the purpose of going to the bank?

CHRISTOPHER: I'd asked him the day before to borrow money because he knew that I was going to leave that day, but he didn't have any idea that my daughter was going with me. And I believe ah, the real reason that he agreed to go to the bank with me, and to loan me the money was, you know, to get me out of the picture between him and Boots and whatever. But he did agree to help me, and said he'd do whatever he could to help me, you know. But when we went to the bank, instead of borrowing $200, he borrowed $300. Well, he'd

A-221

never borrowed it, he draw'd it out of his account.

MILLS: Checking or savings?

CHRISTOPHER: Checking account.

MILLS: And that was the ah, which bank?

CHRISTOPHER: The Citizens Bank of ah, Naples, is that what it is? Down town across from the driver's license --

MILLS: Yeah, you're talking about the north trail.

CHRISTOPHER: Greech, Greech Creek?

YOUNG: Creech. Creech Road?

CHRISTOPHER: It's right in there.

MILLS: So you and he went up there together?

CHRISTOPHER: Right. We went to the drive-in window, and ah, ah, made a withdrawal slip out for $300. And ah, he presented it to the woman, and she checked it out and she said they had a $300 hold ah, on the money that he had in the checking account. And I think this had something to do with the loan. I think he had borrowed a $100, or he withdrew a $1,000 rather, out of his savings account, or borrowed a $1,000 is what I believe he'd done, and put it in his checking account, because he has government checks of about $1,200 a month coming in, and they all go to the bank. So, ah, in order for him to withdraw that money, that morning, ah, the bank manager, the man that he talked to, that I was present there with him, ah, told him that he would just put a hold on one of his checks, you know, to cover the $300, and go ahead and let him have the

300 now being that he needed it, and he told him that he was borrowing the money, to let me have it for my trip back to Memphis and for whatever repairs I needed done to my car. So the man went ahead and authorized the $300 withdrawal slip. We went down stairs, and he presented it to the teller, and she give him $300. He handed the money to me, we went out and got back in the car, and went back to the house.

YOUNG: You ah, I don't know whether we mentioned it earlier or not, what date was that?

CHRISTOPHER: August 31st.

YOUNG: This year?

CHRISTOPHER: Right. Same date.

YOUNG: What car did you go down to the bank in?

CHRISTOPHER: Ah, we used Bootsie's car. Bertha Skillen's.

YOUNG: Maverick --

CHRISTOPHER: Maverick, green and black.

MILLS: And you brought that car back to the apartment?

CHRISTOPHER: Right. I parked it next to his car between his and my, my car.

MILLS: What did you do with the keys from that car?

CHRISTOPHER: I'm not certain, I don't remember if I give the keys back to Charlie, I don't even remember if we locked the car up, I really don't. I don't believe that we did, I, I could be wrong about that, I'm not sure.

YOUNG: What happened to that gun?

CHRISTOPHER: Pardon?

YOUNG: What happened to the weapon that was used?

CHRISTOPHER: Ah -- if I'm not mistaken the police retrieved it from my mother's car last night.

YOUNG: Has that been in your possession since that time?

CHRISTOPHER: Yes, sir, it has.

YOUNG: What type gun is it?

CHRISTOPHER: RG-23-22 revolver.

YOUNG: How many shots were fired total?

CHRISTOPHER: Two shots.

YOUNG: And the hulls, what happened to the hulls, did you do anything about them?

CHRISTOPHER: I recall taking the empty hulls out of the gun, and either throwing them into the lake behind the apartment, or into the yard, I'm not sure if they went into the lake or not, but I remember throwing them that way. But I'm sure that they can be retrieved.

MILLS: Have we covered what happened after you and Charlie got back, after you and George got back from the bank?

YOUNG: Yeah -- why don't you go ahead and tell about the incident with Charlie after you got back from the bank. You've already mentioned that you shot him, but ah, you didn't --

CHRISTOPHER: Okay. Ah --

YOUNG: -- tell us about the details leading up to that.

CHRISTOPHER: Well, I knew, you know, Boots was already dead,

and ah, like I said, I was still mad and ah, that's one reason why I hid the body, because as long as I knew he didn't know anything about what happened to her, he'd go ahead to the bank with me and get the money. Right? Okay. Well when we got back, I asked him again why he had put his hands on my daughter the way he had. And we got into an argument about that, and I slapped the man down in the, the, ah, was in the dining room. Ah, he tried to fight me back and I broke away from him, then he run back in the bedroom, and tried to lock the door to me, and I opened the door on him, and he backed up and sat down on the bed, and that's when I shot him.

YOUNG: In what position did he fall?

CHRISTOPHER: Ah, he fell over on his side, on the bed, and then he fell over into the floor between the wall and the bed.

YOUNG: Did he ever say anything?

CHRISTOPHER: He didn't say nothing.

YOUNG: Did Bertha know she was going to be shot, or did she say anything about her being shot?

CHRISTOPHER: No.

MILLS: What prompted Bertha to say she was going to call the police?

CHRISTOPHER: Ah, like I said, her and I got into an argument about why she didn't do anything about Charlie putting his hands on Norma, you know, I mean she's raised this girl for

fifteen years, uh, she tells me that she loves her more than anything in the world, you know, that's her baby, you know. Ah, if she'd cared that much about her, couldn't no man come in her house ah, and put his hands on her, on her daughter that way. Not without her raising some kind of hell about it. But she just acted to me like she didn't want to say too much to me, because she was going to mess her security up, you know. And ah, that was the, the statement that she made to me, you know, that I was messing everything up for her. You know, to be even starting this about my daughter.

YOUNG: Did she ever agree to let Norma stay with you?

CHRISTOPHER: Yes, sir, she did. She agreed to let Norma stay with me, ah, it was my understanding that she had asked me at one time, her and Charlie both sit down and talked to me, and to Norma both, that if they went to Nap -- I mean to Miami or wherever, if they, we'd be able to maintain the apartment, you know, with my job, and ah, for her to go ahead and finish this year in school, in Naples, because that's what Norma wanted to do, she didn't want to go to Miami. And that was the main reason that ah, that Bertha was in Naples now, it was to get Norma away from Miami. She didn't want to change schools with her, so we had it worked out where we could get Charlie's trailer and fix it up and let Norma go ahead and go to school and me work.

MILLS: I -- I think that about covers this thing, but ah, eventually you did tell Norma about the deaths?

CHRISTOPHER: Yes. It was approximately ten days after then.

MILLS: Okay. Can you think of anything else that you want to say?

CHRISTOPHER: I don't know what, there may be something that I'm overlooking right now, you know, I don't know what.

YOUNG: Sgt. Boswell, you got a question?

BOSWELL: No, I don't believe at this time.

YOUNG: Ah, we're going to end this interview now, ah, Bill. But we want ah, have you been promised or threatened or anything --

CHRISTOPHER: No, sir, I haven't been promised. I haven't been threatened.

YOUNG: -- in return for your statements? What is the reason for you giving this statement?

CHRISTOPHER: The main reason I'm giving this statement is to clear my daughter of anything, because she's not guilty of nothing, and my family, ah, it's like Capt. Smith said awhile ago, ah, he's willing to let my brother and my sister go, I mean, they, they had been charged with accessory after the fact, they're not guilty of it.

YOUNG: No one -- has anyone accused your daughter of murder?

CHRISTOPHER: Her mother has. Her natural mother.

YOUNG: I mean, I mean, I'm talking about the police?

CHRISTOPHER: No, not that I know of, off -- I, just what I heard, I heard from my aunt that Walter Kruse, which is a police officer here in Memphis that I grew up with, said that the warrant was coming in, that they believe that ah, that my daughter had killed Bertha, and I had killed Charlie, and that isn't so, because my daughter was in school.

YOUNG: Bill, that you're giving that statement on your own free will?

CHRISTOPHER: I was giving it on my own free will.

YOUNG: Okay. We want to end this statement now, we end at 10:44 on September the 22nd, 1977.